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Presidential Documents

Title 3—

The President

Proclamation 5535 of September 30, 1986

Fire Prevention Week, 1986

By the President of the United States of America

A Proclamation

The American people must redouble their efforts to prevent fires and their terrible toll in human lives and the destruction of property. There are encouraging signs: Today smoke detectors have been installed in 75 percent of American homes. Our target is 100 percent. National public awareness campaigns have prompted many families to plan and practice means of quick escape if fire strikes in the home. Fire safety concepts, such as "Stop, Drop, and Roll" to smother a clothing fire, are gaining currency. Many homes have installed sprinkler systems to extinguish fires quickly, and more Americans are making it a practice to keep fire extinguishers handy in the home, especially in the kitchen, where many fires start. There is an increased awareness and avoidance of such dangerous practices as smoking in bed, leaving matches where young children can get at them, and overloading electrical circuits.

Despite all these efforts, the annual deaths, injuries, and economic losses from fire are still staggering. We cannot afford any letup in our efforts to prevent fires.

The Federal Emergency Management Agency and its United States Fire Administration are working with all levels of government, the private sector, service organizations, and volunteer groups to launch a national campaign to assure that every home in the United States has a properly installed and maintained smoke detector. The Operation Life Safety program, a consortium of the private sector, the International Association of Fire Chiefs, and the United States Fire Administration, also is making valuable contributions by encouraging the installation of residential sprinkler systems. Over 150 communities have established such programs at last count.

We are very proud of, and grateful to, our Nation's fire fighters: the more than one million men and women, both volunteer and career, who daily risk their own lives to save the lives and property of others. Last year 122 fire fighters gave their lives in the line of duty. They are true heroes to whom we owe a lasting debt of gratitude. I am pleased to know they will be honored at the National Fallen Fire Fighters Memorial Service at the National Emergency Training Center in Emmitsburg, Maryland, on October 12.

I commend the many national, State, and local organizations whose dedicated commitment to fire safety has done so much to reduce our Nation's fire losses in the last decade, and I am grateful for the contributions of the National Fire Protection Association, the originator of Fire Prevention Week, and I congratulate this organization as it celebrates its 90th anniversary this year.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning October 5, 1986, as Fire Prevention Week, and I call upon the people of the United States to plan and actively participate in fire prevention activities during this week and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86-22500
Filed 10-1-86: 9:41 am]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

[Docket No. 86-409]

Revision of Delegation of Authority; Assistant Secretary for Marketing and Inspection Services et al.

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department by delegating to the Assistant Secretary for Marketing and Inspection Services and the Administrator of the Animal and Plant Health Inspection Service the authority to act under section 1458(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended [7 U.S.C. 3291(a)(3)].

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Michael A. Lidsky, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5533.

SUPPLEMENTARY INFORMATION:

Background

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended (7 U.S.C. 3101 *et seq.)* was enacted in part to increase cooperation and coordination in the performance of agricultural research by Federal departments and agencies. Specifically, § 1458(a)(3) of NARETPA authorizes the Secretary of Agriculture to "work with developed and transitional countries on food, agricultural, and related research and extension, including providing technical assistance, training, and advice to persons from such countries engaged in such activities and the stationing of scientists at national and international institutions in such countries".

The Animal and Plant Health Inspection Service (APHIS) is authorized to cooperate with various foreign countries to carry out operations to detect, eradicate, suppress, control, and prevent the spread of communicable diseases of animals and plant pests. The Secretary of Agriculture believes that for APHIS to be able to work with all foreign countries on agricultural and related research with respect to animal and plant health will benefit APHIS' activities both domestic and abroad. Such cooperation by APHIS with foreign countries should include, where appropriate, agreements for the exchange of personnel to study the prevention, diagnosis, control, and eradication of animal diseases and plant pests as well as providing training, technical assistance, and advice to persons engaged in such activities.

Therefore, this document amends the delegations of authority of the Department of Agriculture in 7 CFR Part 2 by delegating to the Assistant Secretary for Marketing and Inspection Services, and the Administrator of APHIS the authority to act under section 1458(a)(3) of NARETPA

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment thereon are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this subject is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation of Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953 unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by adding a new paragraph (b)(39) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(b) * * *

(39) Authority to work with developed and transitional countries on agricultural and related research and extension, with respect to animal and plant health, including providing technical assistance, training, and advice to persons from such countries engaged in such activities and the stationing of scientists of national and international institutions in such countries (7 U.S.C. 3291(a)(3)).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.51 is amended by adding a new paragraph (a)(42) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(42) Authority to work with developed and transitional countries on agricultural and related research and extension, with respect to animal and plant health, including providing technical assistance, training, and advice to persons from such countries engaged in such activities and the stationing of scientists at national and international institutions in such countries (7 U.S.C. 3291(a)(3)).

Dated: September 29, 1986.

For Subpart C:

Richard E. Lyng,
Secretary of Agriculture.

Dated: September 29, 1986.

For Subpart F:

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 86-22356 Filed 10-1-86 8:45 am]

BILLING CODE 3410-01-M

Federal Crop Insurance Corporation

7 CFR Part 412

[Doc. No. 3548S]

Public Information

AGENCY: Federal Crop Insurance Corporation. USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the regulations governing the availability of information to the public as found in 7 CFR Part 412—Public Information—Freedom of Information. The intended effect of this final rule is to properly identify the individuals from whom information may be sought by the public; to correct the location of the Records Management Officer; and to provide reference to information collection control numbers under the Paperwork Reduction Act. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are unnecessary and contrary to the public interest, and good cause is found for making this rule effective in less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management it is exempt from the provisions of Executive Order 12291. E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

Under the Freedom of Information Act (FOIA) affirmative disclosure provisions contained in 5 U.S.C. 552(a) (1) and (2), the Federal Crop Insurance Corporation (FCIC) is required to make certain information on its organization, operations, and regulations available for public use so the public can deal with FCIC knowledgeably and effectively.

In compliance with 5 U.S C 552(a)(1) relative to where and how the public may obtain information, FCIC published a final rule on January 5, 1979, in the **Federal Register** at 44 FR 1365, (7 CFR Part 412—Public Information). The current regulations do not reflect changed titles and locations, nor indicate the Office of Management and Budget (OMB) information collection control numbers issued to FCIC. The regulations as revised and reissued contain these changes.

List of Subjects in 7 CFR Part 412

Administrative practice and procedure; Freedom of Information Act; Availability of information to the public.

Final Rule

Accordingly, under the authority contained in the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues 7 CFR Part 412, Public Information, to read as follows:

PART 412—PUBLIC INFORMATION

Freedom of Information

Sec.

412.1 General statement.
412.2 Public inspection and copying.
412.3 Index.
412.4 Requests for records.
412.5 Appeals.
412.6 OMB control numbers.

Authority: 5 U S.C. 301, 552; 7 CFR 1.1-1.16; 7 U.S.C 1516(b).

Freedom of Information

§ 412.1 General statement.

This part is issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR 1.1-1.16, and Appendix A, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by the regulations in this part, govern availability of records of the Federal Crop Insurance Corporation (FCIC) to the public.

§ 412.2 Public inspection and copying.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by the FCIC at the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Agriculture Building, U.S Department of Agriculture, Washington, DC, 20250, from 8:15 a.m. to 4:45 p.m., Monday through Friday, or at the office of any FCIC Field Operations Office Director during the regular operating hours of that office. To obtain the addresses of Field Operations Offices, either call or write the Deputy Manager, FCIC, Room 4096, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-6795. When the information desired is not available at a given FCIC location, the FCIC office where the request is received will assist the requester by directing the request to another FCIC office where the information may be obtained. The requester will be informed that the request has been forwarded to the appropriate FCIC office. Except for such information as is generally available to the public, requests should be made in writing and submitted in accordance with 7 CFR 1.3 and 412.4 of this part.

§ 412.3 Index.

5 U.S.C. 552(a)(2) requires that each agency publish, or otherwise make available, a current index of all materials available for public inspection and copying. The FCIC will maintain a current index providing identifying information for the public as to any material issued, adopted, or promulgated by the Corporation since July 4, 1967, and required by section 552(a)(2). Pursuant to the Freedom of Information Act provisions, FCIC has determined that in view of the small number of public requests for such index, publication of such an index would be unnecessary and impracticable. Copies of the index will be available upon request in person or

by mail to the Records Management Officer, Federal Crop Insurance Corporation, Room 4606, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250.

§ 412.4 Requests for records.

The Deputy Manager, FCIC, located in Washington, DC, and all Directors of Field Operations Offices are authorized to receive requests for records submitted in accordance with 7 CFR 1.3(a), and to make determinations whether to grant or deny these requests, and other determinations in accordance with 7 CFR 1.4(c).

§ 412.5 Appeals.

Any person whose request under § 412.4 above is denied shall have the right to appeal such denial. This appeal shall be submitted in accordance with 7 CFR 1.3(e) and addressed to the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

§ 412.6 OMB control numbers.

OMB control numbers are contained in Subpart H to Part 400, Title 7 CFR.

Done in Washington, DC on September 4, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-22187 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Cathay Pacific Airways, Ltd.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Cathay Pacific Airways, Ltd. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: September 16, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Cathay Pacific Airways, Ltd., on September 16, 1986, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence "Cathay Pacific Airways, Ltd."

Dated: September 24, 1986.

Harriet B. Marple,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-22298 Filed 10-1-86; 8:45am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 86-102]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of Puerto Rico from Class A to Class Free. This action is necessary because it has been determined that Puerto Rico meets the standards for Class Free status. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from Puerto Rico.

DATES: Effective date is October 2, 1986. Written comments must be received on or before December 1, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that they are in response to Docket Number 86-102. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan D. Huber, Domestic Program Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; (301) 436-5965.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or Areas which do not meet the minimum standards for Class C are required to be placed under Federal quarantine. This document changes the classification of Puerto Rico from Class A to Class Free.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the period of 12 months preceding classification as Class Free. The Class C classification is for States or Areas with the highest rate of brucellosis, with Classes A and B in between. Restrictions on the movement of cattle are more stringent for movements from Class A States or Areas compared to movements from Free States or Areas, and are more stringent for movements from Class B States or Areas compared to movements from Class A States or Areas, and so on. The restrictions include testing of certain cattle when cattle are moved from other than Class Free States or Areas.

The basic standards for the different classifications of States or Areas concern maintenance of: (1) A State or Area-wide accumulated 12 consecutive month herd infection rate not to exceed a stated level; (2) a Market Cattle Identification (MCI) reactor prevalence rate not to exceed a stated rate (this concerns the testing of cattle at auction markets, stockyards, and slaughtering establishments); (3) a surveillance system which includes a testing program for dairy herds and slaughtering establishments, and provisions for identifying and monitoring herds at high risk of infection, including herds adjacent to affected herds and herds from which infected animals have been sold or received under approved action plans; and (4) minimum procedural standards for administering the program.

Prior to the effective date of this document, Puerto Rico was classified as a Class A State. It had been necessary to classify Puerto Rico as "Class A" rather than Class Free because of the presence of brucellosis. To attain and maintain Class Free status, a State or Area must, among other things, remain free from brucellosis in cattle for the preceding 12-month period and the adjusted MCI reactor prevalence rate for such 12-month period must not exceed one reactor per 2,000 cattle tested (0.050 percent). A review of brucellosis program records established that Puerto Rico should be changed to Class Free since Puerto Rico now meets the criteria for classification as Class Free.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the interstate movement of certain cattle from Puerto Rico.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule". Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy, will not cause a major increase in costs or prices for consumers, individuals industries, Federal, State, or local government agencies, or geographic regions; and will not cause adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Puerto Rico reduces certain requirements on the interstate movement of these cattle. Cattle from Certified Brucellosis-Free Herds moving interstate are not affected by the change in status. It has been determined that the changes in brucellosis status made by this document will not affect marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, 9 CFR Part 78 is amended as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.20 [Amended]

2. Section 78.20(a) is amended by adding "Puerto Rico;" immediately before "Rhode Island."

3. In § 78.20(b), "Puerto Rico" is removed.

Done at Washington, DC, this 26th day of September 1986.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86–22296 Filed 10–1–86; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11 and 25

Amendment to Access Authorization Fee Schedule; Publication for Licensee Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to revise the schedule for publishing access authorization investigation fees charged to licensee personnel who require access to National Security Information and/or Restricted Data and Special Nuclear Material. The amendments are needed to notify licensees that NRC will publish fee adjustments concurrent with notification from the Office of Personnel Management (OPM).

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Chief, Facilities Security and Operational Support

Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4124.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management conducts access authorization background investigations for the NRC and sets the cost for these investigations. In accordance with current regulations, the access authorization fee rates are published in the **Federal Register** during July of each year.

Since NRC's fees are wholly dependent on the background investigation rate charged by OPM, a more accurate and efficient regulatory requirement would be to publish revisions to the access authorization fee concurrently with OPM's notification to NRC of a revised background investigation rate change.

Because these are amendments dealing with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register.** Good cause exists to dispense with the usual 30-day delay in effective date because the amendments are of a minor and administrative nature dealing with a matter of agency procedure, a change in the schedule for notifying licensees of adjustment in access authorization fees.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.).

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of the analysis may be obtained from Richard A. Dopp, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–4124.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. Each NRC licensee or other organization which may require access to classified information or Special Nuclear Material in connection with a license or application for a license will be affected by this final rule. Less than 13 entities are currently required to meet the requirements of 10 CFR Parts 11 and 25. Because none of these has been determined to be small as defined by the Regulatory Flexibility Act of 1980, the Commission finds that this rule will not have significant economic impact upon a substantial number of small entities.

List of Subjects

10 CFR Part 11

Hazardous materials—transportation, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

10 CFR Part 25

Classified information, Investigations, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 11 and 25.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 11 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

2. Section 11.15(e) is revised to read as follows:

§ 11.15 Application for special nuclear material access authorization.

* * * * *

(e)(1) Each application for special nuclear material access authorization, renewal, or change in level must be accompanied by the licensee's remittance payable to the U.S. Nuclear Regulatory Commission according to the following schedule:

i. NRC–U requiring full field investigation	$1,580
ii. NRC–U based on certification of comparable full field background	[1] 0
iii. NRC–U or R renewal	[1] 15
iv. NRC–R	[1] 15
v. NRC–R based on certification of comparable investigation	[2] 0

[1] If the NRC determines, based on its review of available data, that a full field investigation is necessary, a fee of $1,580 will be assessed prior to the conduct of such investigation.

[2] If the NRC determines, based on its review of available data, that a National Agency Check investigation is necessary, a fee of $15.00 will be assessed prior to the conduct of such investigation; however, if a full field investigation is deemed necessary by the NRC based on its review of available data, a fee of $1,580 will be assessed prior to the conduct of such investigation.

(2) Material access authorization fees will be published each time the Office of Personnel Management notifies NRC of a change in the background investigation rate it charges NRC for conducting the investigation. Any such changed access authorization fees will be applicable to each access authorization request received upon or after the date of publication. Applications from individuals having current Federal access authorizations may be processed expeditiously at no cost, since the Commission may accept the certification of access authorizations and investigative data from other Federal government agencies which grant personnel access authorizations.

* * * * *

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

3. The authority citation for Part 25 continues to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701.)

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. Section 25.17(e) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(e) Applications for access authorization processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each "Q" and "L" access authorization request. Access

authorization fees will be published each time the Office of Personnel Management notifies NRC of a change in the background investigation rate it charges NRC for conducting the investigations. Any such changed access authorization fees will be applicable to each access authorization request received upon or after the date of publication. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the certification of access authorization and investigative data from other Federal Government agencies which grant personnel access authorizations.

Dated at Bethesda, Maryland, this 17th day of September, 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86-22364 Filed 10-1-86 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number 86-ANE-19; Amendment 39-5415]

Airworthiness Directives; Rolls-Royce Dart Mks. 506, 506F, 510, 510A, 511, 511-7E, 514, 514-7, and 515 Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires installation of oversize high pressure turbine (HPT) nozzle guide vanes on certain Rolls-Royce (R-R) Dart turboprop engines. The AD is needed to prevent high cycle fatigue (HCF) cracking of the HPT disk which could result in an uncontained engine failure.

DATE: Effective November 4, 1986.

Compliance—As required in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register on November 4, 1986.

ADDRESSES: The applicable service bulletin (SB) may be obtained from Rolls-Royce plc—East Kilbride, Attn: Dart Engine Service Manager, Glasgow G74-4PY, Scotland.

A copy of the SB is contained in Rules Docket Number 86-ANE-19, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD which would require installation of oversize HPT nozzle guide vanes on certain R-R Dart turboprop engines was published in the **Federal Register** on June 17, 1986 (51 FR 21924).

The proposal was prompted by reports of HCF cracking of HPT disk rims in certain R-R Dart turboprop engines. These cracks have caused uncontained separation of the disk rim. It has been determined by test that excessive gap between nozzle guide vane groups can allow hot gases to impinge on the disk rim, in turn softening the rim material and allowing HCF cracks to form. There have been 31 known occurrences of disk rim HCF cracking, 19 of which resulted in release of a segment of disk rim, of which 5 were uncontained. Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires installation of oversize HPT nozzle guide vanes to achieve the required interplatform gap between vane groups.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

Conclusion

The FAA has determined that this regulation involves 102 engines, and the cost per engine will vary with the amount of rework or replacement required, but is not considered significant with respect to the cost of engine overhaul. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Rolls-Royce plc: Applies to Rolls-Royce Dart Mks. 506, 506F, 510, 510A, 511, 511-7E, 514, 514-7, and 515 turboprop engines.

Compliance is required as indicated, unless already accomplished.

To prevent cracking of high pressure turbine disks, install new or reworked oversize high pressure nozzle guide vane(s) in accordance with Rolls-Royce Dart (R-R) Service Bulletin (SB) Da72-451, Revision 5, dated June 1982, or FAA approved equivalent, by October 1, 1987.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

R-R SB Da72-451, Revision 5, dated June 1982, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Rolls-Royce plc—East Kilbride, Attn: Dart Engine Service Manager, Glasgow G74-4PY, Scotland. This document may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Room 311, Rules Docket Number 86-ANE-19, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment becomes effective on November 4, 1986.

Issued in Burlington, Massachusetts, on September 12, 1986.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 86-22249 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ANM-19]

Alteration of Portland, OR, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action is necessary to redefine the current geographical boundaries of the Portland, Oregon, 700 foot transition area to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901, UTC, December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-534, Federal Aviation Administration, Docket No. 86-ANM-19, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

History

On June 26, 1986, the FAA proposed to amend Part 71 of the Fderal Aviation Regulations (14 CFR Part 71) to redefine the geographical boundaries of the Portland, Oregon, 700 foot transition area. (51 FR 23240). This action will provide additional controlled airspace to accommodate aircraft executing the VOR/DME-B approach to McMinnville Municipal Airport, McMinnville, Oregon.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will provide additional controlled airspace to accommodate aircraft executing the VOR/DME-B approach to McMinnville Municipal Airport, McMinnville, Oregon.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas

Adoption of the Amendment

PART 181—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. § 71.181 is amended as follows:

Portland, Oregon Transition Area (Amended)

That airspace extending upward from 700 feet above the surface bounded on the north by lat. 46°00'00" N., on the east by long. 122°00'00" W; thence via a line to lat. 45°51'00" N, long. 122°00'00" W; to lat. 45°51'00" N, long. 122°05'00" W; bounded on the south by lat. 45°10'00" N, and on the west by long. 123°30'00" W; including that airspace 2.26 miles either side of the Newburg VORTAC 215° (T) radial between a point 13.5 nautical miles and 19.78 nautical miles of the Newburg VORTAC 215° (T) radial; that airspace extending upward from 1,200 feet above the surface bounded on the north by a line beginning at a point 3 miles offshore at lat. 46°30'30" N, extending easterly via lat. 46°30'30" N, to long. 121°40'00" W; thence easterly along the south edge of V-204 to lat. 46°30'40" N, long. 120°36'00"W; on the east by V-25, on the south by V-536 to Corvallis, VOR; thence via lat. 44°30'00" N, to a point 3 miles offshore and on the west by a line 3 miles offshore to the Point of beginning.

Issued in Seattle, Washington, on September 24, 1986.

William E. O'Neill,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 86-22247 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 917

[Docket No. 60845-6145]

National Sea Grant Program Funding Regulations; Identification of Updated National Needs

AGENCY: Office of Sea Grant and Extramural Programs, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Section 206 of the National Sea Grant College Program Act, 33 U.S.C. 1125, specifies that the Secretary of Commerce (delegated to NOAA) shall identify national needs and problems with respect to ocean and coastal resources and the grants for projects involving such needs may be funded without regard to matching requirements. In accordance with this requirement, a list was published in the **Federal Register** in August 1978 (43 FR 35030). Since then priorities have changed and it is necessary to update the list. Proposed changes were published in the **Federal Register** on April 11, 1986 (51 FR 12525). Limited comments were received, primarily suggesting ways to eliminate minor ambiguities, and for the most part are incorporated in this final rule. There is no priority significance intended by their numerical sequence. The ordering of the statement is based on a thematic grouping of related concepts, not relative importance.

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. David B. Duane, (301) 443-8894, Assistant Director, Program Development, National Sea Grant College Program, R/SE1, 6010 Executive Blvd., Rm. 824, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Response to Comments

A number of comments were received with respondents addressing one or more of the proposed national needs.

The National Sea Grant College Program Office reviewed and carefully considered all comments received.

Generally, each commentor suggested in some manner that the stated need be made more specific. For example, as initially proposed, need number 1, relating to extreme natural events referred to ocean coast and continental shelf, neglecting specific mention of the Great Lakes. Another example can be illustrated by need number 13. As originally proposed, it mentioned real time, in-situ monitoring techniques. Now it is more specific as it mentions monitoring of biological, chemical, and physical processes. However, the needs were purposely prepared to be generic, and still remain so, both to encourage the widest possible range of activities in response to a need, and to avoid implying any preferred position on controversial issues where more knowledge is needed. It is the desire of the National Sea Grant College Program Office that new knowledge gained, or goods and services produced as a consequence of a specific activity responding to one or more of these general needs, will lead to improved and equitable development and conservation of marine resources.

As a consequence of consideration given comments received, specific reference is made to the Great Lakes where doing so clarified intent as in needs 1, 11, 13, and 33. Also in response to commentors, changes to clarify initial ambiguities were made to needs 13, 15, 18, 20, and 27 and a new need was added and inserted as number 26.

Other Actions Associated with Rulemaking

(A) Classification under Executive order 12291

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of Section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulaton is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(B) Administrative Procedure Act and Regulatory Flexibility Act

This rule is matter relating to grants and contracts. Although comments were solicited, the rule is not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2) or any other law, and therefore, the Regulatory Flexibility Act does not apply. Accordingly, a Regulatory Flexibility Analysis has not been prepared.

(C) Effective Date

For the reasons explained in the immediately preceding paragraph, the 30-day delayed effectiveness requirement of the Administrative Procedure Act does not apply, and the rule is being made effective on the date of publication in the **Federal Register.**

(D) Paperwork Reduction Act

The regulations do not contain any information collection requirements.

List of Subjects in 15 CFR Part 917

Grant programs—ocean and Great Lakes resources.

For the reasons set forth in the preamble, 15 CFR Part 917 is amended as follows:

PART 917—NATIONAL SEA GRANT COLLEGE PROGRAM FUNDING REGULATIONS

1. The authority for 15 CFR part 917 continues to read as follows:

Authority: Pub. L. 94–461, 90 stat. 1961, 1965; 33 U.S.C. 1121 et seq.

2. Section 917.21 is amended in paragraph (C) by revising paragraphs (c)(1) through (c)(15) and adding new paragraphs (c)(16) through (c)(33).

§ 917.21 National needs and problems.

* * * * *

(c) * * *

(1) Improve the prediction of extreme natural events and their effects on ocean coastal and continental shelf locations as well as analogous regions of the Great Lakes.

(2) Improve the predictability of global sea-level change and determine the impact of this change on coastal areas.

(3) Define the processes that determine ocean variability on the time scale of a few weeks to a few years, and the relationship to fluctuations in global and regional climate, primary productivity, and fisheries production.

(4) Improve understanding of the flow fields and mixing processes on the continental shelves of the United States.

(5) Develop an increased understanding of the arctic and antarctic environment and a capability to predict the special hazards posed to transportation and resource development.

(6) Develop and increased capability to characterize the engineering properties of ocean botton sediments.

(7) Reduce the recurring economic loss due to corrosion of structures, vessels, and other devices in the marine environment.

(8) Gain a fundamental understanding of the processes by which biological fouling and associated corrosion are initiated upon material surfaces exposed to seawater.

(9) Investigate methods to improve man's underwater capability to conduct undersea research and perform useful work.

(10) Investigate the wider application of remotely operated and artificial intelligence techniques for vehicles for undersea activities.

(11) Expand/improve remote sensing technologies for use on the ocean and Great Lakes.

(12) Advance knowledge of acoustics in the ocean and ocean bottom in order to exploit the burgeoning acoustics technologies.

(13) Develop techniques for in-situ monitoring of biological, chemical, and physical processes in the Great Lakes, oceans, and their connecting waterways which are cost effective and provide data in real time.

(14) Improve the position of the U.S. seafood industry in world seafood markets.

(15) Design more efficient mechanisms to allocate U.S. fish resources to achieve optimum yield and minimize industry dislocations.

(16) Gain a fundamental understanding of the biological productivity of estuarine and coastal waters.

(17) Conduct research leading to the restoration and/or enhancement of heavily exploited fishery stocks.

(18) Improve the capability for stock assessment, predicting yield, age-class strength, and long-term population status of important fisheries.

(19) Conduct research to increase the economic potential of low-value, high-volume fish products.

(20) Develop productive and profitable aquaculture industries in the United States and technology that can be exported to less developed nations of the world with different climate, cultural, and economic constraints.

(21) Explore marine biochemicals as source of chemical feedstocks, enzymes, pharmacological substance, and other bioactive agents such as pesticides.

(22) Apply modern biotechnology to exploiting marine plants, animals, and microorganisms for good and services.

(23) Develop rapid, efficient, and specific methods for assaying the potential of marine organisms to communicate disease to humans.

(24) Develop innovations that would promote safe, nondestructive, recreational access to and use of marine and Great Lakes water.

(25) Re-examine the ocean as an appropriate place for the disposal of wastes from land-based society.

(26) Develop an increased understanding of the impacts of low density, nonbiodegradable, solid wastes on marine and Great Lakes species.

(27) Conduct research for realizing the economic potential of the nonliving resources of the U.S. 200-mile Exclusive Economic Zone.

(28) Investigate the effect of seafloor hydrothermal systems on the seafloor, oceans, and atmosphere.

(29) Develop a better understanding of the value the marine sector contributes to the U.S. economy and culture.

(30) Improve the competitive position of American ports in the face of rapid technological and social change.

(31) Improve the capability of developing nations to address their marine resource needs.

(32) Develop eductional programs to increase application of marine sector research.

(33) Develop syntheses of and better access to existing multidisciplinary marine and Great Lakes information.

Dated: September 25, 1986.

Joseph O. Fletcher,

Assistant Administrator, Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 86-22319 Filed 10-1-86; 8:45 am]

BILLING CODE 3510-12-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3196]

Saga International, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Compton, Calif. manufacturer and seller of ultrasonic pestcontrol devices to refund the full purchase price of its "Home Free" pest-control product to any consumer who bought the device after Dec. 31, 1983. Additionally, respondent is required to provide signs for retailers to post about the availability of refunds and advertise their availability through newspaper ads. Further, respondent is prohibited from making any performance or efficacy claims about any ultrasonic pest-control product unless it possesses and relies upon competent and reliable evidence that substantiates its claims.

DATE: Complaint and order issued August. 20, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Harrison J. Sheppard, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: On Thursday, June 5, 1986, there was published in the **Federal Register**, 51 FR 20500, a proposed consent agreement with analysis In the Matter of Saga International, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.20 Comparative data or merits; § 13.170 Qualities or properties of product or service; § 13.170-46 Insecticidal or repellant; § 13.170-80 Rodenticidal; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-55 Refunds, rebates, and/or credits. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1575 Comparative data or merits; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th St. & Pa. Ave., NW., Washington, DC 20580.

List of Subjects in 16 CFR Part 13

Ultrasonic pest control devices, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86-22258 Filed 10-1-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 448

[Docket No. 86N-0351]

Antibiotic Drugs; Bacitracin-Polymyxin B Sulfate Topical Aerosol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new dosage form of bacitracin-polymyxin B sulfate, bacitracin-polymyxin B sulfate topical aerosol. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective October 2, 1986 comments, notice of participation, and request for hearing by November 3, 1986; data, information, and analyses to justify a hearing by December 1, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Norton, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of bacitracin-polymyxin B sulfate, bacitracin-polymyxin B sulfate topical aerosol. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should

be amended in Part 448 (21 CFR Part 448) to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. This final rule, therefore, is effective October 2, 1986. However, interested persons may, on or before November 3, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before November 3, 1986, a written notice of participation and request for hearing, and (2) on or before December 1, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 448

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 448 is amended as follows:

PART 448—PEPTIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 448 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. By adding new § 448.510f to read as follows:

§ 448.510f Bacitracin-polymyxin B sulfate topical aerosol.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Bacitracin-polymyxin B sulfate topical aerosol is bacitracin and polymyxin B sulfate in a suitable and harmless vehicle, packaged in a pressurized container with a suitable and harmless inert gas. Each gram contains 500 units of bacitracin and 5,000 units of polymyxin B. Its bacitracin content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of bacitracin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of polymyxin B that it is represented to contain. Its moisture content is not more than 0.5 percent. The bacitracin used conforms to the standards prescribed by § 448.10(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1).

(2) *Labeling.* (i) On the label of the immediate container and on the outside wrapper or container, if any:

(*a*) The batch mark;

(*b*) The name and quantity of each active ingredient contained in the drug; and

(*c*) An expiration date that conforms to the requirements prescribed by § 432.5(a)(3) of this chapter.

(ii) On the label of the immediate container or other labeling attached to or within the package, adequate directions under which the layman can use the drug safely and efficaciously.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The bacitracin used in making the batch for potency, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, loss on drying, pH, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) The bacitracin used in making the batch: 10 packages, each containing approximately 1.0 gram.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing 1.0 gram.

(*c*) The batch: A minimum of 12 immediate containers.

(*b*) *Tests and methods of assay.* The container must remain inverted throughout the sampling procedure. Freeze the container overnight at −70 °C. Remove from the freezer and puncture the container to allow the propellant to dissipate. Open the container, mix well, and proceed as described in paragraph (b) (1) and (2) of this section.

(1) *Potency*—(i) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample from the container into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot, add sufficient hydrochloric acid so that the amount of acid in the final solution will be the same as in the reference concentration of the working standard, and further dilute with solution 1 to the reference

concentration of 1.0 unit of bacitracin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed portion of the sample from the container into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed § 436.201 of this chapter, using the titration procedure and calculation in paragraph (e)(3) of that section and 1- to 2-milliliter portions of the sample from the container.

Dated: September 25, 1986.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 86-22279 Filed 10-1-86; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 452

[Docket No. 86N-0354]

Antibiotic Drugs; Erythromycin for Prescription Compounding

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new form of erythromycin, erythromycin for prescription compounding. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective October 2, 1986; comments, notice of participation, and request for hearing by November 3, 1986; data, information, and analyses to justify a hearing by December 1, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Norton, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new form of erythromycin, erythromycin for prescription compounding. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 452 (21 CFR Part 452) to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. This final rule, therefore, is effective October 2, 1986. However, interested persons may, on or before November 3, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before November 3, 1986, a written notice of participation and request for hearing, and (2) on or before December 1, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 452 is amended as follows:

PART 452—MACROLIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 452 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. By adding and reserving new Subpart I, and by adding new Subpart J and new § 452.910 to read as follows:

Subpart I—[Reserved]

Subpart J—Certain Other Dosage Forms

§ 452.910 Erythromycin for prescription compounding.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Erythromycin for

prescription compounding is the odorless, white to grayish-white or slightly yellow compound of a kind of erythromycin or a mixture of two or more such compounds. It is so purified and dried that:

(i) It contains not less than 850 micrograms of erythromycin per milligram calculated on an anhydrous basis.

(ii) Its moisture content is not more than 10 percent.

(iii) Its pH is not less than 8.0 nor more than 10.5.

(iv) Its residue on ignition is not more than 2.0 percent.

(v) It gives a positive identity test for erythromycin.

(vi) It is crystalline.

(2) *Packaging.* The immediate container shall be a tight container as defined by the United States Pharmacopeia XXI. It shall be so sealed that the contents cannot be used without destroying such seal. Each such container shall contain 10 grams, 25 grams, or 100 grams of erythromycin.

(3) *Labeling.* In addition to the requirements of § 432.5(a)(3) of this chapter, each package shall bear on its outside wrapper or container and on the immediate container the following:

(i) The statement "Caution: Federal law prohibits dispensing without prescription."

(ii) The statement "Not sterile."

(iii) The batch mark.

(iv) The number of micrograms of erythromycin activity in each milligram of erythromycin and the number of grams of erythromycin in the immediate container.

(v) The statement "The potency of this drug cannot be assured for longer than 90 days after the container is first opened for compounding a prescription."

(vi) The statements "For use only in extemporaneous prescription compounding. Not for manufacturing use."

(4) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, moisture, pH, residue on ignition, identity, and crystallinity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics: 10 packages, each containing not less than 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient methyl alcohol to obtain a concentration of 10 milligrams of erythromycin base per milliliter (estimated). Dilute this solution further with sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution containing 1.0 milligram of erythromycin base per milliliter (estimated). Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, except standardize the pH meter with pH 7.0 and pH 10.0 buffers and prepare the sample as follows: Dissolve 200 milligrams of sample in 5 milliliters of reagent grade methyl alcohol. Add 95 milliliters of water and mix. Record the pH when an equilibrium value has been reached.

(4) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(5) *Identity test.* Proceed as directed in § 436.211 of this chapter, using the sample preparation method described in paragraph (b)(3) of that section.

(6) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

Dated: September 25, 1986.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 86-22283 Filed 10-1-86; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 452

[Docket No. 86N-0346]

Antibiotic Drugs; Sterile Erythromycin Lactobionate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new dosage form of erythromycin, sterile erythromycin lactobionate. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective October 2, 1986; comments, notice of participation, and request for hearing by November 3, 1986; data, information, and analyses to justify a hearing by December 1, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard Norton, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of erythromycin, sterile erythromycin lactobionate. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 452 (21 CFR Part 452) to provide for the inclusion of accepted standards for the product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. This final rule, therefore, is effective October 2, 1986. However, interested persons may, on or before November 3, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before November 3, 1986, a written notice of participation and request for hearing, and (2) on or before December 1, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR

314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 452 is amended as follows:

PART 452—MACROLIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 452 continues to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. By adding new § 452.32a to read as follows:

§ 452.32a Sterile erythromycin lactobionate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Erythromycin lactobionate is the white to off-white powder of the lactobionate salt of erythromycin or a mixture of two or more such salts. It is so purified and dried that:

(i) If the erythromycin lactobionate is not packaged for dispensing, its erythromycin potency is not less than 525 micrograms of erythromycin per milligram on an anhydrous basis. If the erythromycin lactobionate is packaged for dispensing, its erythromycin potency is not less than 525 micrograms of erythromycin per milligram on an anhydrous basis and also, each container contains not less than 90 percent and not more than 120 percent of the number of milligrams of erythromycin that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 5.0 percent.

(v) Its pH is not less than 6.5 and not more than 7.5.

(vi) Its residue on ignition is not more than 2.0 percent.

(vii) Its heavy metals content is not more than 50 parts per million.

(viii) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, moisture, pH, residue on ignition, heavy metals, and identity.

(ii) Samples, if required by the Director, Center for Drugs and Biologics:

(*a*) If the batch is packaged for repacking or for use as an ingredient in the manufacture of another drug:

(*1*) For all tests except sterility: A minimum of 12 immediate containers.

(*2*) For sterility testing: 20 packages, each containing equal portions of approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 12 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows:

(i) *Product not packaged for dispensing (micrograms of erythromycin per milligram).* Dissolve an accurately weighed sample with sufficient methyl alcohol to obtain a concentration of 10 milligrams of erythromycin base per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

(ii) *Product packaged for dispensing.* Determine both micrograms of erythromycin per milligram of sample and milligrams of erythromycin per container. Use separate containers for preparation of each sample solution as described in paragraph (b)(1)(ii)(*a*) and (*b*) of this section.

(*a*) *Micrograms of erythromycin per milligram.* Dissolve an accurately weighed sample with sufficient methyl alcohol to obtain a concentration of 10 milligrams of erythromycin base per milliliter (estimated). Further dilute an aliquot of this solution with 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

(*b*) *Milligram of erythromycin per container.* Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute an aliquot of the solution thus obtained with sterile distilled water to obtain a concentration of 10 milligrams of erythromycin base per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 30 milligrams of erythromycin per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using a concentration of 50 milligrams of erythromycin per milliliter.

(6) *Residue on ignition.* Proceed as directed in § 436.207(a) of this chapter.

(7) *Heavy metals.* Proceed as directed in § 436.208 of this chapter.

(8) *Identity.* Proceed as directed in § 436.211 of this chapter, using the sample preparation method described in paragraph (b)(3) of that section.

3. By redesignating § 452.232 as § 452.232a and by adding new §§ 452.232 and 452.232b to read as follows:

§ 452.232 Erythromycin lactobionate injectable dosage forms.

§ 452.232a Erythromycin lactobionate for injection.

* * * * *

§ 452.232b Sterile erythromycin lactobionate.

The requirements for certification and the tests and methods of assay for sterile erythromycin lactobionate packaged for dispensing are described in § 452.32a.

Dated: September 25, 1986.

Sammie R. Young,

Deputy Director, Office of Compliance.

[FR Doc. 86-22282 Filed 10-1-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3-86-60]

Regatta; Long Island Gran Prix, Long Island Sound and Smithtown Bay, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Long Island Gran Prix sponsored by the Gateway Powerboat Association of Greenwich, CT. This racing event, involving high speed powerboats, will be held in Smithtown Bay which is located between Eatons Neck and Crane Neck Point on the north shore of Long Island, New York. This regulation is needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective on October 11, 1986 at 11:00 a.m. and terminates the same day at 3:00 p.m. The approved postponement date in the event of inclement weather is October 12, 1986 during the same times.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668-7974.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. The application for this event was received at the Third District Boating Safety Office on September 2, 1986. Due to the nature of this race, extensive coordination with other marine interests was necessary to preclude interference with other events. A Coast Guard Permit For Marine Event was issued for a major sail race to be held on 11 and 12 October 1986 in western Long Island Sound. Upon review of that permit and discussion with the sponsor it was determined that this sail regatta would take place in the same location initially proposed for the Long Island Gran Prix (Long Island Sound in the vicinity of Matinicock and Oak Neck Points). Additional time was needed to develop an alternative area (Smithtown Bay) for the power boat race. Therefore, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Long Island Gran Prix, sponsored by the Gateway Powerboat Association of Greenwich, CT, will be held in Smithtown Bay on the north shore of Long Island on October 11, 1986. This powerboat racing event was held for the first time on Long Island Sound between Matinicock and Oak Neck Points last year on October 5, 1985. This year an expected 50 powerboats, 20 to 50 feet in length, will race around a triangular course in Smithtown Bay, approximately 7.5 nautical miles in length. The race is scheduled to be held between 11:00 a.m. and 3:00 p.m. The sponsor will provide from 10 to 15 vessels which will be used to mark the corners of the race course and to assist the Coast Guard and local authorities in patrolling this event. Since it is anticipated that the powerboats participating in this race will be traveling at speeds around 100 m.p.h., spectator vessels will be required to remain at least 150 yards away from any straight leg of the course and shall not approach any closer than ¼ nautical mile from any of the three turning points of the race course. When these powerboats make high speed turns, they can be expected to swing wide of the turning markers. Mariners should use extreme caution while near the race course area. The Coast Guard will issue a safety voice broadcast and information will be published in the weekly Local Notice to Mariners to notify boaters of this event. In order to provide for the safety of life and property on navigable waters, the Coast Guard will restrict vessel movement in the regulated area.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35–332 to read as follows:

§ 100.35-332 Long Island Gran Prix.

(a) *Regulated Area.* Smithtown Bay and part of Long Island Sound off the north shore of Long Island, New York in the area within a ¼ nautical mile radius of each of the following three points, and within 150 yards of each race leg connecting these points:

Latitude 40 Degrees 56.6 Minutes North
Longitude 73 Degrees 14.1 Minutes West
Latitude 40 Degrees 57.4 Minutes North
Longitude 73 Degrees 17.8 Minutes West
Latitude 40 Degrees 58.2 Minutes North
Longitude 73 Degrees 14.0 Minutes West

(b) *Effective Period.* This regulation will be effective from 11:00 a.m. to 3:00 p.m. on October 11, 1986. The approved postponement date in the event of inclement weather is October 12, 1986 during the same times.

(c) *Special Local Regulations.* (1) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No spectator shall enter, pass through or remain within the regulated area as marked by the sponsor or Coast Guard patrol personnel during the effective period.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(4) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: September 24, 1986.

J.C. Uithol,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 86-22322 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD3 86-51]

Special Local Regulations; Head of Connecticut Regatta, Connecticut River, Middletown, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Head of Connecticut Regatta being sponsored by the City of Middletown, Connecticut. This event involves some 2000 participants racing rowing shells in scheduled heats on the Connecticut River. These rowing shells can be swamped by a passing vessel's wake. This regulation is needed to provide for the safety of participants and spectators on navigable waters during this event.

EFFECTIVE DATES: This regulation becomes effective at 9:00 a.m. on October 12, 1986 and terminates the same day at 6:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky (212) 668-7974.

SUPPLEMENTARY INFORMATION: On August 21, 1986, the Coast Guard published a Notice of Proposed Rule Making in the Federal Register for this regulation [51 FR 29948]. Interested persons were requested to submit comments, and no comments were received. This regulation is being made effective in less than 30 days from the date of publication. There was not sufficient time remaining to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Mr. Lucas A. Dlhopolsky, Project Officer, Third Coast Guard District Boating Safety Division, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The twelfth annual Head of Connecticut Regatta sponsored by the City of Middletown, Connecticut is a marine event well known to the boaters and residents of this area. In the past few years it has grown to become one of the largest crew shell race events of its type on the East Coast. Approximately 430 crew shells will race against the clock in 18 heats during the day. The sponsor will provide 6 to 8 vessels in conjunction with Coast Guard and local authorities to patrol this event. Several of the sponsor's vessels may assist in controlling the spectator fleet which has been growing larger in the past few years despite the late date of this event. The race course will be the same as in 1985 located on the Connecticut River off Cromwell, Portland and Middletown, Connecticut. There is minimal commercial traffic this far up the Connecticut River at this time of the year. On the average, fewer than 2 fuel barges transit this section of the river on any given day enroute to oil facilities along the river. The Coast Guard will restrict vessel movement within the regulated section of the Connecticut River during this event to provide for the safety of the participants and spectators on navigable waters. All non-participating vessels wishing to transit through the regulated area will be permitted to do so only at the discretion of the Coast Guard Patrol Commander. Vessel movements shall be at no wake speeds and with Coast Guard or Coast Guard Auxiliary escort when directed by the Patrol Commander. Mariners are urged to use extreme caution when transiting the regulated area. The Coast Guard Captain of the Port, New London will make notification to and request the cooperation of the upstream commercial facilities in scheduling any vessel deliveries prior to or after completion of the races. The Coast Guard will issue a safety voice broadcast on the day of the race and information about this regulation will be published in this Local Notice To Mariners to advise the general boating public and commercial users of the Connecticut River of the event.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory polices and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Coordination with local commercial marine interests in advance of the event date should minimize any adverse impact on waterborne commerce during the effective period of these regulations. Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—AMENDED

1. The authority citation for Part 100 continues to read ad follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding a temporary § 100.35-329 to read as follows:

§ 100.35-329 Head of Connecticut Regatta, Middletown, Connecticut.

(a) *Regulated Area.* That section of the Connecticut River between the southern tip of Gildersleeve Island and aids to navigation light Number 87.

(b) *Effective Period.* This regulation will be effective from 9:00 a.m. to 6:00 p.m. on October 12, 1986.

(c) *Special Local Regulations.* (1) The regulated area shall be closed to all vessel traffic during the effective period. No person or vessel shall enter or remain in the regulated area when it is closed unless participating in the event or authorized by the sponsor or the Coast Guard Patrol Commander.

(2) Vessels awaiting passage through the regulated area shall be held in the vicinity of the southern tip of Gildersleeve Island, if southbound; and at Light 87 if northbound, until escorted at no wake speeds by Coast Guard or Coast Guard Auxiliary patrol vessels through the race course.

(3) The sponsor shall ensure that all races completed by 6:00 p.m. on October 12, 1986.

(4) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: September 23, 1986.

G.D. Passmore,

Rear Admiral (Lower Half) U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86-22321 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 1-85-4]

Drawbridge Operation Regulations; Kennebec River, ME

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Maine Department of Transportation, the Coast Guard is amending the regulations governing the highway drawspan over the Kennebec River between the Towns of Richmond and Dresden, Maine, by requiring that advance notice of opening be given during the times of decreased water traffic. These amendments are being made to accommodate the needs of vehicular traffic, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, Boston, MA 02210-2209 (617-223-8338).

SUPPLEMENTARY INFORMATION: On June 2, 1986, the Coast Guard published in 51 FR 19756 a proposal to revise these regulations. The Commander, First Coast Guard District, also published these proposals as a Public Notice dated 9 June 1986. Interested persons were given until 17 July 1986 to submit comments.

Drafting Information

The drafters of these regulations are: W.J. Naulty, Chief, Bridge Branch, First Coast Guard District, and Lieutenant D. J. St. James, USCGR, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of Comments

No comments were received in response to the notice in the **Federal Register** or the public notice issued by the First Coast Guard District. The lack of response to either notice is assumed to mean that the proposed amendment is acceptable to all concerned parties.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations impose no additional restrictions on navigation. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499, 49 CFR 1.46, and 33 CFR 1.05-01(g).

2. Section 117.525(b) is revised to read as follows:

§ 117.525 Kennebec River.

* * * * *

(b)(1) The draw of the Main Department of Transportation highway bridge, mile 27.1, between Richmond and Dresden, shall be opened promptly, on signal, for the passage of vessels between the hours of 9 a.m. and 5 p.m. from June 1 through September 30. At other hours during this period the draw need not be opened for the passage of vessels except on advance notice given to the drawtender on duty between the hours of 9 a.m. and 5 p.m.

(2) At times other than those specified above, the draw need not be opened for the passage of vessels, except when 24 hours notice is given in person, in writing, or by telephone to the Maine Department of Transportation Division Office, At Rockland.

Dated: September 29, 1986.

R.L. Johanson,

Rear Admiral (Lower Half), U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 86-22320 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

43 CFR Part 4

Department Hearings and Appeals Procedures; Indian Probate Fees

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: This Office is removing a regulation providing for the collection of probate fees from the estates of deceased Indians for whom the United States held land in Indian trust status. This action is taken because Congress repealed the legislation providing for the collection of such fees. The action deletes the Department's obsolete regulation. The Office also amends a second regulation referring to the collection of probate fees.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT: Bruce A. Johnson, Deputy Director, Office of Hearings and Appeals, (703) 235-3810.

SUPPLEMENTARY INFORMATION: On December 19, 1985, the Office of Hearings and Appeals published proposed amendments deleting references to the collection of fees for probating the trust estates of deceased Indians. The amendments were proposed because, effective September 26, 1980, Pub. L. 96-363 repealed 25 U.S.C. 375b and 377, the legislation requiring the Department of the Interior to collect probate fees. The Department's regulations in 43 CFR 4.280 provided for the collection and amount of such fees. Because this regulation was made obsolete by Pub. L. 96-363, it was proposed that the regulation be removed. No fees have been collected since the repeal of sections 375b and 377.

Conforming amendments were also proposed to 43 CFR 4.251, which refers to the collection of probate fees.

No comments were received on the proposed amendments.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the amendment provides for the removal of an obsolete regulation that has not been enforced since 1980.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Department of the Interior has determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National

Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321–4347).

This rule was written by Kathryn Lynn, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Indians.

Dated: August 14, 1986.

Ann McLaughlin,

Under Secretary.

43 CFR Part 4, Subpart D, is amended as follows:

1. The authority citation for Part 4, Subpart D, continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

§ 4.280 [Removed]

2. Section 4.280 is removed.

3. In § 4.251, the introductory text and paragraph (b) are revised to read as follows:

§ 4.251 Priority of claims.

After allowance of the costs of administration, claims shall be allowed:

* * * * *

(b) The preference of claims may be deferred, in the discretion of the administrative law judge, in making adjustments or compromises beneficial to the estate.

* * * * *

[FR Doc. 86–22358 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–10–M

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43 CFR Part 4

Department Hearings and Appeals Procedures; Indian Trust Property, etc.

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: This office is adding a new regulation allowing persons receiving Indian trust property or an interest in such property either under a will or through intestate succession to renounce succession to that property or interest in property. A conforming amendment clarifies that the office's Administrative Law Judges (Indian Probate) have authority to accept such a renunciation of interest. A second amendment to the regulation setting forth the general authority of Administrative Law Judges (Indian Probate) explicitly provides authority for the partial distribution of estates when a potential heir or devisee is missing and cannot be located.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT: Bruce A. Johnson, Deputy Director, Office of Hearings and Appeals, (703) 235–3810.

SUPPLEMENTARY INFORMATION: On May 19, 1986, the Office of Hearings and Appeals published proposed regulations concerning renunciations of inherited and devised interests in Indian trust property and the partial distribution of estates in which a possible heir is missing and cannot be located. Based upon its experience in probating Indian trust estates, this office observed that allowing renunciations of Indian trust property or interests in such property would frequently be in the best interests of an Indian decedent's survivors. Property often passed to individuals who either did not want it or believed that another person needed or deserved it more. When property passed to a non-Indian, it lost its Indian trust status, often to the detriment of all persons concerned.

Therefore, the office proposed that a new regulation providing a consistent mechanism for renunciations be adopted. The proposed rule was intended to be lenient, with few mandatory procedural requirements, so that it would be easy to use, while still ensuring that the person renouncing both understood and intended the results.

A proposed conforming amendment to 43 CFR 4.202 would show that the office's Administrative Law Judges (Indian Probate) had authority to accept such renunciations.

A second amendment was also proposed to 43 CFR 4.202 that would explicitly provide for partial distribution of Indian trust estates when a potential heir or devisee was missing and could be located. The lack of such explicit authority had resulted in delays in the distribution of interests in Indian trust estates to those determined entitled to receive interests. The office believed such unnecessary delay was not in accordance with the Department's trust responsibility to Indians. This amendment conformed with recent decisions of the Interior Board of Indian Appeals (IBIA) and the Director of the Office of Hearings and Appeals in *Estate of Frances Ingeborg Conger (Ford)*, 13 IBIA 296, 92 I.D. 512 (1985), *on review by Director*, 13 IBIA 361, 92 I.D. 634 (1985).

Three public comments were received concerning the proposed renunciation amendment. One comment addressed the general question of fractionation of undivided interests in Indian trust land. Because this comment was not specifically addressed to the proposed regulations, it has been addressed apart from this rulemaking proceeding.

A second comment supported the proposed renunciation rule.

A third comment suggested that specific procedures should be incorporated within the rule to ensure that renunciations were entered into voluntarily, knowingly, and without coercion. The commentor was particularly concerned that renunciations not be used by non-Indians as a means to deprive Indians of their interests, thereby resulting in more land being taken out of trust.

The office expects that every Administrative Law Judge (Indian Probate) presented with a renunciation will conduct whatever investigation is necessary to ensure that the person renouncing an interest understands and intends the consequences of the action and is not acting under duress or coercion. Because, however, any such investigation will vary considerably from case to case, it is not deemed advisable to regulate specific requirements and procedures in this area. Instead, the Department will rely upon the expertise of its judges as to the depth of any investigation needed.

This commentor also suggested the deletion of the provision ratifying any prior renunciations that might have been accepted. The office believes that an explicit ratification is necessary to avoid the possibility of having to reopen each such estate. The comment is, therefore, not accepted.

One comment was received concerning the missing heir regulation. The comment suggested the incorporation of a specific procedure for distributing the retained portion of the estate if the missing heirs were not located. This comment is not accepted because it is beleived that existing procedures are sufficient to permit the later distribution of the retained portion of the estate.

The Department of the Interior has determined that neither rule is a major rule under E.O. 12291 and certifies that they will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the new regulations concern only procedures for distributing the trust estates of certain deceased Indians.

Paperwork Reduction Act

These rules do not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 301 *et seq.*

The Department of the Interior has determined that the rules do not constitute major Federal actions significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321–4347).

The rules were written by Paul T. Baird, Director, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedures, Indians, Indians—Lands.

Dated: August 15, 1986.

Ann McLaughlin,

Under Secretary.

43 CFR Part 4, Subpart D, is amended as follows:

1. The authority citation for Part 4, Subpart D, continues to read as follows:

Authority: Secs. 1, ,2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

2. Section 4.202 is revised to read as follows:

§ 4.202 General authority of administrative law judges.

Administrative law judges shall determine the heirs of Indians who die intestate possessed of trust property, except as otherwise provided in §§ 4.205(b) and 4.271; approved or disapprove wills of deceased Indians disposing of trust property; accept or reject full or partial renunciations of interest in both testate and intestate proceedings; allow or disallow creditors's claims against estate of deceased Indian; and decree the distribution of trust property to heirs and devisees, including the partial distribution to known heirs or devisees where one or more potential heirs or devisees are missing but not presumed dead, after attributing to and setting aside for such missing person or persons the share or shares such person or persons would be entitled to if livng.

3. A new § 4.208 is added immediately after § 4.207 to read as follows:

§ 4.208 Renunciation of interest.

Any person 21 years or older, whether of Indian descent or not, may renounce intestate succession or devise of trust or retsricted property, wholly or partially (including the retention of a life estate), by filing a signed and acknowledged declaration of such renunciation with the administrative law judge prior to entry of the administrative law judge's final order. No interest in the property so renounced is considered to have vested in the heir or devisee and the renunciation is not considered a transfer by gift of the property renounced, but the property so renounced passes as if the person renouncing the interest has predeceased the decedent. A renunciation filed in accordance herewith shall be considered accepted when implemented in an order by an administrative law judge and shall be irrevocable thereafter. All disclaimers or renunciations heretofore filed with and implemented in an order by an administrative law judge are hereby ratified as valid and effective.

[FR Doc. 86–22357 Filed 10–1–86; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 159

[CGD 86–057]

OMB Control Numbers; Reporting and Recordkeeping Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), requires generally that all regulations which contain recordkeeping or reporting requirements must be approved by the Director, Office of Management and Budget (OMB). Once approved, these regulations are assigned an OMB Control Number. OMB Control Numbers for regulations within certain parts of Title 46, Code of Federal Regulations are displayed in a Table appearing at 46 CFR 159.001–9. This document updates the table to display OMB Control Numbers assigned to certain regulations within Part 160.

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Lt. Sandra Sylvester, (202) 267–1534.

SUPPLEMENTARY INFORMATION: This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days. This rule merely displays existing OMB Control Numbers pertaining to specific Coast Guard regulations for the public's information. Therefore the Coast Guard has determined that notice and comment procedure are unnecessary under the Administrative Procedure Act [5 U.S.C. 553(b)(B)]. Since this rule has no substantive effect, good cause exists to make this rule effective in less than thirty days under 5 U.S.C. 553(d)(3).

Drafting Information

This rule was drafted by Lt. Sandra R. Sylvester, Office of Chief Counsel, Regulations and Administrative Law Division.

Regulatory Evaluation

This regulation is considered to be non-major under Executive Order 12291, and non-significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers and imposes no new substantive requirements. Since the impact of this rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 159

Business and Industry, Laboratories, Marine safety, Recordkeeping and reporting requirements.

PART 159—[AMENDED]

In consideration of the foregoing, Part 159 of Chapter I, Title 46, Code of Federal Regulations, is amended to read as follows:

1. The authority citation for Part 159 continues to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. Section 159.001–9(b) is amended by adding the following new entries in numerical order to read as follows:

§ 159.001–9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) Display.

* * * * *

§ 160.171–15	2115–0141
§ 160.171–23	2115–0141

* * * * *

Dated: September 25, 1986.

J.E. Vorbach,

Chief Counsel, RADM, U.S. Coast Guard.

[FR Doc. 86–22323 Filed 10–1–86; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 546

[APD 2800.12 CHGE 31]

General Services Administration Acquisition Regulation; Destination and Certification Testing

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation

(GSAR), Chapter 5, is amended by revising Subpart 546.4 to clarify the applicability of the subpart to GSA contracting activities other than those in the Federal Supply Service; by revising sections 546.402 and 546.403 to change the requirements for source inspection and destination inspection; and by revising Section 546.470–2 to delete the reference to the National Bureau of Standards (NBS) because NBS does not provide certification testing. Other minor editorial changes are made in Part 546 for clarity. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: September 22, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations on (202) 566–1224.

SUPPLEMENTARY INFORMATION: This rule will not have a significant cost or administrative impact on contractors or offerors. Therefore, it was not published for public comment in the **Federal Register**. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The final rule raises the dollar thresholds to $25,000 for source inspection; changes the requirements for destination inspection, and clarifies instructions on certification testing. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Part 546

Government procurement.

PART 546—QUALITY ASSURANCE

1. The authority citation for 48 CFR Part 546 continues to read as follows:

Authority: 40 U.S.C. 486(c).

546.407 [Removed]

2. The table of contents for Part 546 is amended by removing § 546.407—Nonconforming supplies and services.

3. Section 546.400 is revised to read as follows:

546.400 Scope of subpart.

This subpart prescribes policies and procedures which are to be used by the Federal Supply Service and which may be used by other GSA activities.

4. Section 546.402 is revised to read as follows:

546.402 Government contract quality assurance at source.

Contracts should provide for inspection of supplies to be performed at source under the following circumstances, unless brand name products are being purchased or supplies are being purchased using small purchase procedures (see FAR Part 13 and GSAR Part 513).

(a) The contract is for national requirements (including shipments to key GSA supply distribution facilities);

(b) The contract is a Schedule contract that has been selected for source inspection;

(c) The contract is for regional requirements;

(d) The contract is an indefinite delivery, definite quantity contract;

(e) The contract is for class 8010 items;

(f) The contract is for special purpose vehicles, trucks that are over 10,000 pounds gross vehicle weight (GVW), trucks weighing 10,000 pounds GVW or less that are not covered by a Federal standard, and vehicles to be shipped outside the conterminous United States; or

(g) When the contracting director determines for other reasons that it is in the best interest of the Government due to the critical nature of the material. In these instances, the contracting director shall notify the appropriate Contract Management Division that the contract provides for source inspection and explain the reason for inspecting at source.

5. Section 546.403 is revised to read as follows:

546.403 Government contract quality assurance at destination.

Contracts should provide for inspection to be performed at destination when—

(a) Supplies are being purchased using small purchase procedures outlined in FAR Part 13 and GSAR Part 513;

(b) Brand name products are being purchased;

(c) The Schedule contract has not been selected for source inspection;

(d) Standard vehicles are being purchased for domestic consignees; or

(e) Trucks weighing 10,000 pounds GVW or less are being purchased for domestic consignees using a Federal Standard.

6. Sections 546.470 and 546.470–1 are revised to read as follows:

546.470 Testing.

Testing to determine conformance with specifications and standards may be conducted at facilities of Federal agencies, manufacturers, independent testing laboratories, and others, as appropriate.

546.470–1 Acceptance testing.

(a) Acceptance testing is conducted to determine conformance with requirements of purchase descriptions or specifications before a shipment is accepted. Such testing must not be solely for the purpose of furnishing information to a producer or vendor as to conformance of an article or commodity with specification requirements.

(b) The cost of services for acceptance testing of representative samples of a shipment normally will be borne by GSA. However, if the samples tested fail to meet the requirements of the specification or purchase description, the contractor shall be required to pay any additional costs incurred for a retest as a result of the failure.

7. Section 546.470–2 is amended by revising paragraph (b) to read as follows:

546.470–2 Certification testing.

* * * * *

(b) A certificate from a recognized laboratory may be a requirement in a Federal specification. When there is a lack of suitable commercial testing facilities, producers or vendors may obtain a certification from a Government laboratory, and are required to bear the cost of testing, including all items of the cost. In this event, GSA will, when feasible, arrange for the required testing upon receiving a request from a producer or vendor and upon payment of the required fee.

Dated: September 22, 1986.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 86–22331 Filed 10–1–86; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 19]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule, correction.

SUMMARY: This notice corrects errors occurring in the final rule published on May 2, 1986, adopting HB3 and HB4 light sources for replaceable bulb headlamps. The notice also clarifies an apparent discrepancy between the amendment published on May 2, and an amendment published on May 7 with reference to the amendment of paragraph S4.1.138 and its redesignation as paragraph S4.1.1.39. An error in Figure 13 is corrected. An explanation is provided with respect to two of the nonsubstantive amendments published on August 8, 1986.

EFFECTIVE DATE: The corrections are effective October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Officer of Rulemaking, National Highway Traffic Safety Administration, Washington DC 20590 (202-366-5281).

SUPPLEMENTARY INFORMATION: During the first week of May 1986 the agency published two notices amending Standard No. 108. The notice that appeared on May 2 (51 FR 16325) adopted the HB3 and HB4 light sources for use in replaceable bulb headlamps, and redesignated the existing light source as HB1. This amendment was not effective until June 2. Several days later, on May 7, a notice was published (51 FR 16847) amending the specifications for the existing light source, but this notice was effective upon publication.

When read in order of publication, some confusion results. The notice of May 2 removes S4.1.1.39, redesignates S4.1.1.40 as S4.1.1.38 and revises it, and redesignates S4.1.1.38 as S4.1.1.39 and revises it. The notice of May 7 revises S4.1.1.38. It is impossible to revise S4.1.1.38 (formerly S4.1.1.40) as adopted on May 2 on the basis of the revision of S4.1.1.38 published on May 7. However, there should be no confusion when revision is made on the basis of the effective dates of May 7 and June 2: S4.1.1.38 (as it appears in 49 CFR 571.108 as of October 1, 1985) is revised for the period May 7-June 2, 1986; on June 2 S4.1.1.38 is redesignated as S4.1.1.39 and further revised. On June 2 the existing S4.1.1.40 becomes the new S4.1.1.38 and is revised in certain respects. Because amendments are effective on the date specified, there is no legal reason to republish the May 2 amendments, and the agency regrets any confusion that may have been caused by publication of the notices out of sequence.

The notice of May 2, however, does contain errors in the text of S6.7.2(c) and S6.8. In both these sections the value of relative humidity is given and 40 plus or minus 10%. Although this was the value initially proposed, between the time of the proposal and the rule NHTSA had adopted 30% as the value in another rulemaking (50 FR 21052, May 22, 1985); therefore correction is made to specify 30 plus or minus 10%. In the amendment redesignating S4.1.1.38 as S4.1.1.39, the plus sign was inadvertently omitted from the general specification for lower beam of the HBI light source, and the word "Engineering" was omitted from the title of the Illuminating Engineering Society of North America. In paragraph S4.5.8 the word "replacement" should have been "replaceable."

General Motors has brought to the agency's attention the fact that the value for dimension AB in Figure 11 is properly .56 inch rather than .54 inch, and an appropriate correction is made.

The agency has found an error in Figure 13 pertaining to the Type LF headlamp unit, in which letters representing Dimensions C and L were transposed. This notice corrects that error.

Finally, the nonsubstantive amendments published on August 6, 1986 (51 FR 28238), purported to change paragraphs S6.7.2(a)(2), (b)(2), and (c)(2), and S6.7.2(c)(3); however, the three subparagraphs (2), and subparagraph (3) were eliminated by the amendments published on May 2, so that the purported amendments are without legal effect.

Because the amendments are corrective in nature and impose no additional burdens on any person, it is hereby found that for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest, and the amendment is effective upon publication in the **Federal Register.**

PART 571—[AMENDED]

In consideration of the foregoing Part 571 is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Corrected]

2. In Subparagraph (b) of paragraph S4.1.1.39 the lower beam for the HB1 Specification is changed from "700—15 percent to" "700 ± 15 percent."

3. In Subparagraph (d) of paragraph S4.1.1.39 the word "Engineering" is inserted between the words "Illuminating" and "Society."

4. In Paragraph S4.5.8 the word "replacement" is corrected to read "replaceable."

5. Subparagraph (c) of paragraph S6.7.2 is revised by changing the numeral "40" to "30."

6. In the penultimate sentence of paragraph S6.8 the numeral "40" is changed to "30."

7. In Figure 11 the value ".54" for letter AB occurring under the column headed "Inch" is changed to ".56."

8. In Figure 13 under the diagram pertaining to the Type LF headlamp unit, the letters "C REF." and "L" are transposed.

Issued on: September 26, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-22395 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1011 and 1152

[Ex Parte No. 274 (Sub-No .17)]

Abandonments; Delegation of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: To clarify its delegation of authority, the Commission is specifically delineating the necessary authority in the rules for the Director of the Office of Proceedings to issue initial decisions determining (a) whether to designate protested abandonments for investigation (including action on requests for oral hearing); and (b) whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10905(d) in order for negotiations to begin. In both instances, an appeal to the full Commission will be available as a matter of right on an expedited basis.

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S.

InfoSystems, Inc., Room 2229, Interstate Commerce Commisson Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

The revisions in the Appendix are adopted.

This action does not significantly affect the quality of the human environment or energy conservation. Since public comment is not required under 5 U.S.C. 553, the Regulatory Flexibility Act does not apply to this proceeding. See 5 U.S.C. 603.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations.

List of Subjects in 49 CFR Part 1152

Abandonments and discontinuances, Investigations, Offers of financial assistance.

Dated: August 29, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison concurred in part and dissented in part with a separate expression. Commissioner Andre dissented with a separate expression.

Noreta R. McGee,

Secretary.

49 CFR Chapter X is amended as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

1. The authority citation for 49 CFR Part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Section 1011.2 is amended by adding new paragraph (a)(8) to read as follows:

§ 1011.2 The Commission.

(a) * * *

(8) All appeals of initial decisions determining (i) whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing), and (ii) whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d), for purposes of negotiations. Appeals on these matters must be filed 10 days of the date the action is taken, and responses must be filed within 10 days thereafter.

* * * * *

3. Section 1011.8 is amended by adding a new paragraph (c) to read as follows:

§ 1011.8 Delegation of authority by the Interstate Commerce Commission to specific bureaus and offices of the Commission.

* * * * *

(c) *Office of Proceedings.* The Director shall have authority initially determinative of the following:

(1) Whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing).

(2) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10905(d), for purposes of negotiations.

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

4. The authority citation for 49 CFR Part 1152 continues to read as follows:

Authority: 5 U.S.C. 553, 559, and 704; 16 U.S.C. 1247(d); 31 U.S.C. 9701; 45 U.S.C. 904 and 915; and 49 U.S.C. 10321, 10362, 10505, and 10903 et seq.

5. Section 1152.25 is amended by revising paragraph (e)(1) to read as follows:

§ 1152.25 Participation in abandonment or discontinuance proceedings.

* * * * *

(e) *Appellate procedures*—(1) Scope of rule. Except as specifically indicated below, these appellate procedures are to be followed in abandonment and discontinuance proceedings in lieu of the general procedures at 49 CFR Part 1115. Appeals of initial decisions of the Director of the Office of Proceedings determining (i) whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing) and (ii) whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations will be acted upon by the entire Commission pursuant to the rule set forth at 49 CFR 1011.2(a)(8). An original and 10 copies of all appeals, and replies to appeals, under this section should be filed with the Commission.

6. Section 1152.27 is amended by revising paragraph (e) to read as follows:

§ 1152.27 Financial assistance procedures.

* * * * *

(e) *Review of offers.* The Commission will review each offer submitted to determine if the offeror is a financially responsible person offering assistance which is likely to cover: (1) The difference between the revenues attributable to the line and the avoidable cost of providing freight service on the line plus a reasonable return on the value of the line, or (2) the acquisition cost of all or any portion of the line. If these criteria are met, the Commission will issue a decision postponing the issuance of a certificate of abandonment or, if a certificate has been issued, postponing the effective date of the certificate. This decision will be issued within 15 days of the **Federal Register** publication described in paragraph (b) of this section [or five days after the offer is filed if the time for filing has been tolled under paragraph (c)(1)(iii) of this section]. Under the delegation of authority at \$1011.8, the Director of the Office of Proceedings will make the initial determination whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations. Appeals of initial decisions determining whether offers of financial assistance satisfy the standards of 49 U.S.C. 10905(d) for purposes of negotiations will be acted upon by the entire Commission pursuant to the rule set forth at 49 CFR 1011.2(a)(8).

* * * * *

[FR Doc. 86–22289 Filed 10–1–86; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 51, No. 191
Thursday, October 2, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Official U.S. Standards for Grain

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: According to the requirements for a periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the Official U.S. Standards for Grain. FGIS proposes to revise these standards by revising the format of the standards and making certain other changes to provide uniformity between all grain standards.

The proposed format changes include (1) The establishment of a Subpart A—General Provisions; (2) Removing specific terms common to all grains from the individual grain standards and incorporating them into the General Provisions subpart; (3) Designating each grain standard as a separate subpart within the Part 810 regulations; (4) Providing a consistent format structure throughout all 11 standards with common language, where possible; (5) Making the format of all the grade tables consistent between standards; (6) Reorganizing the standards in alphabetical order; (7) Renumbering the standards; and (8) Removing most footnotes and references to footnotes throughout the standards. These changes would simplify, enhance clarity, eliminate duplication, and facilitate use of the standards by providing for ease of reference and identification of individual standards. Also, these changes would conform the grain standards to specific requirements of the Office of the Federal Register for promulgation of regulations in the Code of Federal Regulations.

In addition, other changes proposed to the grain standards to enhance accuracy and to improve uniformity among the various standards are : (1) Redesignate the special grade "weevily" to the more inclusive and meaningful term "infested"; (2) Revise the definitions of barley, oats, and flaxseed to limit mixtures of other grains to 10.0 percent as currently stated in other grain standards; (3) Remove the section relating to additional interpretations from the corn standards as unnecessary; (4) Revise FGIS rounding procedures as stated in the section on Percentages to more generally accepted mathematical procedures; and (5) Further revise procedures for stating percentages and values so that all figures are reported to the nearest tenth, except for ergot which is reported to the nearest hundredth of a percent.

DATE: Comments must be submitted on or before December 1, 1986.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 1661 South Building, 1400 Independence Avenue SW., Washington, DC 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

D.R. Galliart, Acting Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Review of Standards

During the last review of the individual grain standards, FGIS proposed, received public comments, and published final rules dealing with specific substantive changes for the individual grain standards. These reviews also included clarification and simplifying the language of the standards.

Included in these reviews was the identification of similar provisions common to each individual standard. Where feasible, uniform and common language was developed. For example, test weight per bushel language in the majority of the standards was revised to contain identical language; while particular terms and provisions unique to individual standards were retained.

The language common to all standards is repeated eleven times in the Part 810 regulations. It is impossible to make a change to a provision common to all standards without eleven separate rulemakings which ultimately may have effective dates staggered over several years. If adopted, a change to any section of the new General Provisions subpart would automatically apply to all standards while a change in the individual standards would affect only the specific standard for which the change is made.

FGIS has determined that it is appropriate to propose revisions to the format of the standards at this time to further simplify the standards and to eliminate unnecessary duplication. These changes would accomplish several objectives including: (1) Conforming Part 810 regulations into a format generally used for standards in other USDA programs; (2) Enhancing clarity, simplicity, and cost effectiveness as well as eliminating duplication; and (3) Conforming the Official U.S. Standards for Grain to specific requirements for promulgation of regulations in the Code of Federal Regulations, 1 CFR Part 21, Preparation of Documents Subject to Codification, including code structure, numbering, headings, and the like.

Accordingly, FGIS proposes to revise the format of the standards by standardizing the language of terms common to all standards, remove such terms from the individual standards and incorporate them into a subpart headed *General Provisions*. In addition, terms

and provisions in the individual standards that appear in the remaining subparts would be revised to provide for uniform and common language, where possible. For example, the terms damage and dockage would be revised, as appropriate in each standard to reflect uniform language. Accordingly, language of the terms and provisions in the proposed standards may not, in all instances, reflect the language currently in the standards. However, these revisions do not represent substantive changes to the standards.

In the last regulatory review, the majority of the grain standards were revised to change format, as discussed above. Some standards, such as those for corn, do not reflect the same format or include the same language for similar provisions as appear in the majority of the grain standards. For example, the provisions for test weight per bushel does not appear within the same format or include the same language as most other grain standards. Such changes are made herein. Further, some nonsubstantive changes are proposed as to uniform language, such as removing references concerning where certain information is placed on an official certificate. In certain instances, such information is deleted from the text of the standards and will appear only in the FGIS Instructions, as appropriate. Elimination of this supplication corresponds to similar changes recently made by Part 800 of the regulations. In like manner, information which appears in the instructions would be included in certain of the individual standards to accomplish uniformity for common terms and provisions; where possible.

All of the grain standards except for corn generally consist of a format whereby the standard is divided into several parts by headings. These headings are: *Terms Defined,* which includes common and standard specific definitions; *Principles Governing The Application of Standards,* which includes three sections, Basis of determination, Temporary modifications in equipment and procedures, and Percentages: *Grade, Grade Requirements, and Grade Designations,* which includes two sections, Special grades and special grade requirements, and Special grade designations.

As proposed, the *General Provisions* subpart would parallel the format of the current standards. Definitions common to all grain standards would be contained under the heading Terms Defined. The heading, *Principles Governing The Application of Standards* would contain a general *Basis of determination* common to all grain standards, the provisions for *Temporary modifications in equipment and procedures,* and the revised rules for rounding and recording *Percentages.* Included under the heading, *Grades, Grade Requirements, and Grade Designations,* would be a general description of grades and grade requirements and a grade designation section applicable to all standards. Similarly, the *Special Grades, Special Grade Requirements, and Special Grade Designations* heading would include a section generally describing *Special grades and special grade requirements* and a section covering Special grade designations applicable to all standards.

With the creation of the *General Provisions* subpart, certain sections are removed from individual grain standards and are included in Subpart A. For example, common definitions such as *Test weight per bushel, Moisture* and *Stones* would be removed from each standard. The common wording for *Basis of determination, Temporary modifications of equipment and procedures,* and rounding *Percentages* would be removed from each standard. Also, the wording for *Grade designations,* and *Special grade designations* would be removed from the individual standards and rewritten in general terms for inclusion into Subpart A.

Similarly, the sections remaining in each of the eleven individual grain standard subparts would remain unchanged except for conforming changes for format and uniform language purposes. For instance, the grade tables which presently appear in each grade standard would virtually remain unchanged except for changes to formats for consistency among standards and minor changes for purposes of clarity.

To provide ease in reference and identification of individual standards, each standard would be established as a subpart to the Part 810 regulations. The standards also would be reorganized numerically and in alphabetical order as follows:

Subpart A—General Provisions (§§ 810.101—109)
Subpart B—U.S. Standards for Barley (§§ 810.201—207)
Subpart C—U.S. Standards for Corn (§§ 810.401—405)
Subpart D—U.S. Standards for Flaxseed (§§ 810.601—604)
Subpart E—U.S. Standards for Mixed Grain (§§ 810.801–805)
Subpart F—U.S. Standards for Oats (§§ 810.1001—1005)
Subpart G—U.S. Standards for Rye (§§ 810.1201—1205)
Subpart H—U.S. Standards for Sorghum (§§ 810.1401—1405)
Subpart I—U.S. Standards for Soybeans (§§ 810.1601—1605)
Subpart J—U.S. Standards for Sunflower Seed (§§ 810.1801—1805)
Subpart K—U.S. Standards for Triticale (§§ 810.2001—2005)
Subpart L—U.S. Standards for Wheat (§§ 810.2201—2205)

The presence of footnotes in the standards has caused confusion among users of the standards and made publication difficult. To eliminate such confusion, most footnotes and references to footnotes would be removed from the standards. The information contained in the footnotes would be included, as appropriate, within the text of the standards. Footnotes contained within the body of the grade tables would be, for the most part, retained.

Other changes are also proposed to improve the uniformity between the grain standards. The first of these changes is a redesignation of the Special grade "weevily" to "infested." Two U.S. standards for grain (soybeans and sunflower seed), currently use the term "infested" to refer to grain found to contain live insect infestation above a threshold level. It is proposed that the term "infested" be used in all the grain standards because it more appropriately describes grain containing live insects injurious to stored grain. The term "weevily" connotes a specific insect species, e.g., *Sitophilus* spp., Other insects, in addition to types of weevils, are included within the scope of the term infested grain.

It is also proposed that the definitions of the terms barley, oats, and flaxseed be revised. Currently, these definitions specify that mixtures of other grains should not exceed 25 percent in barley and oats and 20 percent in flaxseed to conform to the grain's identity. All remaining grain standards restrict mixtures of other grains for which standards have been established to 10 percent. In the remaining grain standards, if a mixture of more than 10 percent is present in a sample, the grain would normally be graded under the U.S. Standards for Mixed Grain. For uniformity between standards, it is proposed that the definitions for barley, oats, and flaxseed be revised so that all standards restrict mixtures of standardized grain to not more than 10.0 percent. Inasmuch as the definition of mixed grain corresponds to the definitions of the individual grains in the standards, these proposed changes would provide for a more concise and uniform parameter for the definition of mixed grain. Based on inspection experience and current production

practices, it is not expected that a significant number of barley, oats, and flaxseed inspections would be adversely affected by this proposed change.

Further, it is proposed that the U.S. Sample grade requirements for all grains be made more consistent in wording and tolerances for various factors. In some instances information would be included in the language of the standards from the FGIS Instructions. Specifically, the limits for animal filth would be revised to be consistent among the standards. Currently two standards, barley and corn, have a limit of animal filth for U.S. Sample grade in excess of 0.2 percent per 1,000 grams of grain. Also, the current standards for flaxseed, oats, soybeans, and sunflower seeds have a Sample grade limit for animal filth of 10 or more pieces per 1,000 grams of grain (sunflower seed equivalent volume is 600 grams). The remaining standards, rye, sorghum, triticale, and wheat currently limit animal filth for Sample grade at 2 or more pieces per 1,000 grams of grain. Accordingly, it is proposed that the U.S. Sample grade equivalent for animal filth be set at 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of grain (600 grams for sunflower seed). In addition, miscellaneous revisions would be made to the language for U.S. Sample grade in the individual grain standards, as deemed appropriate, for uniformity.

Another proposed change is to remove the current "Interpretations [Added]" from the U.S. Standards for Corn. These sections are currently §§810.904 and 810.905; Interpretations with respect to the term "yellow kernels of corn with a slight tinge of red," and Interpretations with respect to the term "white kernels of corn with a slight tinge of light straw or pink color," respectively. In the last 5-year review period similar provisions for other standards have been deleted. The information contained in the corn interpretations, as is similar information for the other grains, appear in current FGIS Instructions and therefore there is no need to retain this information in the corn standards. It is proposed to remove these sections in the revised standards.

It is also proposed that FGIS change its current procedure for rounding percentages. The current rounding procedures for percentages provides that when a figure to be rounded is followed by a figure greater than 5, the figure is rounded up to the next higher figure, e.g., 0.46 is reported as 0.5; when a figure to be rounded is followed by a figure less than 5, the figure is to be retained, e.g., 0.54 is reported as 0.5; when figures that are even are followed by the figure 5, the even figure is retained; and when a figure is odd and followed by a figure of 5 the odd value, the figure is rounded to the next highest even figure, e.g., 0.45 is reported as 0.4, 0.35 is reported as 0.4.

As proposed, the rounding procedures are removed from each standard and included in Subpart A, General Provisions § 810.105, *Percentages.* A new rounding procedure is proposed which is consistent with rounding performed by calculators and in computer applications. Accordingly, this proposed change would adopt more generally accepted mathematical rounding procedures and would facilitate the understandability and usage of the standards. The new rounding rules simply stated provide that a figure to be rounded followed by a 5 or a figure greater than 5 be rounded up to the next highest figure, e.g., report 0.35 as 0.4, 6.4621 as 6.5. If the figure is followed by a number less than 5, the figure is retained, e.g., report 8.3499 as 8.3.

In addition, it is also proposed that FGIS report all percentages (except ergot) to the nearest tenth of a percent. FGIS has determined that reporting such percentages to the nearest tenth of a percent is reproducible. With this change, dockage percent ages in barley, flaxseed, rye, sorghum, and triticale will be reported to the nearest tenth of a percent. Dockage is barley, flaxseed, rye, and sorghum is currently reported to the nearest whole percentage with a fraction of a percent being disregarded. Dockage in triticale is currently reported to the nearest one-half percent. Less than one-half percent is disregarded. Dockage in triticale is currently rounded so that ranges from 0.5 to 0.9 are reported as 0.5 percent, 1.0 to 1.4 as 1.0 percent, 1.5 to 1.9 as 1.5 percent, and the like. These various systems of reporting dockage percentages have caused confusion. The systems also may understate dockage found in grain. As discussed below foreign material in sunflower seed and foreign material and fines in mixed grain is also proposed to be reported to the nearest tenth of a percent.

FGIS has revised the method of reporting dockage in the wheat standards (51 FR 30323). The new method for wheat is to report dockage to the nearest tenth percent. To enhance accuracy and for uniformity and consistency between standards, it is proposed herein that the dockage provisions in barley, flaxseed, rye, and sorghum also be revised to report to the nearest tenth of a percent.

Many of the benefits as presented in the wheat dockage final rule are applicable to barley, flaxseed, rye, and sorghum. Reporting dockage to the nearest tenth of a percent provides a more accurate description of the raw grain. Overall, grain quality may also improve. A more accurate method of reporting dockage may strengthen the creditability of the official inspection certificate, enhance buyer confidence, and help gain competitive position in world grain markets.

Currently foreign material in sunflower seed is reported to the nearest one-half percent. Ranges of sunflower seed foreign material are rounded as follows: 0.0 to 0.25 is reported as 0.0 percent; 0.26 to 0.75 as 0.5 percent; 0.76 to 1.25 as 1.0 percent, and the like. Foreign material and fines in mixed grain is currently reported to the nearest whole percent. It is proposed that both foreign material factors be revised to be reported to the nearest tenth of a percent enhance accuracy and for uniformity and consistency between standards. Foreign material in all other grain standards is reported to the nearest tenth of a percent.

In the determination whether grain conforms to the definition identifying for each grain, figures will also be reported to the nearest tenth of a percent. For example, currently the definition of wheat requires that the grain after the removal of dockage, consists of 50 percent or more of whole kernels of wheat . . . and not more than 10 percent of other grains . . . The figures in this definition and other similar definitions are proposed to be expressed in tenths such as 50.0 percent of whole kernels of wheat . . . and not more than 10.0 percent of other grains . . . This change would enhance accuracy and would be consistent with other determinations expressed to the nearest tenth of a percent.

Similarly, the definitions for subclasses in the U.S. Standards for Wheat are proposed to be revised to be stated to the nearest tenth of a percent. Several definitions for classes (and subclasses) are currently stated in tenths such as in barley, corn, sorghum, and soybeans. Subclass definitions in the U.S. Standards for Wheat, however, are currently expressed in whole percents. For enhanced accuracy and for uniformity and consistency, these

definitions are revised to express tenths of a percent. For example, the subclass Dark Northern Spring wheat would be required to contain 75.0 percent or more of dark, hard, and vitreous kernels instead of the present 75 percent.

An exception to this uniform system of expressing values in tenths of a percent is the determination of ergot. Ergot is determined for the Special grade "Ergoty" and is applicable to the U.S. Standards for Barley, Mixed Grain, Oats, Rye, Triticale, and Wheat. The determination for ergot is currently expressed in hundredths of a percent and is unchanged with this proposal because of the need for and the capability of achieving as much precision as possible due to the toxicity of this special grading factor.

Test weight per bushel values are also proposed to be expressed in tenths. Currently, test weight results are rounded to whole and half pounds in the U.S. Standards for Barley, Corn, Flaxseed, Mixed Grain, Oats, Sorghum, Soybeans, and Sunflower Seed. A value of less than a half pound is disregarded. The rounding of the test weight per bushel is viewed as unnecessary. The proposed revision would enhance accuracy and would be consistent with the current practice of reporting test weight per bushel to the nearest tenth of a pound as followed in the U.S. Standards for Rye, Triticale, and Wheat. It is proposed that all test weight per bushel values be reported to the nearest tenth of a pound for all grain standards. The revision is included in Subpart A, General Provisions, § 810.102 (d), *Test Weight per bushel.*

Comments including data, views, and arguments are solicited from interested persons. Pursuant to section 4(b) of the Act, upon request, such information may be orally presented in an informal manner. Also, pursuant to section 4(b) of the Act, no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. If adopted FGIS intends that these changes should become effective on May 1, 1987 to coincide, as nearly as practicable, with the beginning of the crop year for the various grains.

List of Subjects in 7 CFR Part 810

Export, Grain.

Accordingly, it is proposed that 7 CFR Part 810 be revised to read as follows:

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

Subpart A—General Provisions

Sec.

Terms Defined

810.101 Grains for which standards are established.
810.102 Definitions of other terms.

Principles Governing the Application of Standards

810.103 Basis of determination.
810.104 Temporary modifications in equipment and procedures.
810.105 Percentages.

Grades, Grade Requirements, and Grade Designations

810.106 Grades and grade requirements.
810.107 Grade designations.

Special Grades, Special Grade Requirements and Special Grade Designations

810.108 Special grades and special grade requirements.
810.109 Special grade designations.

Subpart B—U.S. Standards for Barley

Terms Defined

810.201 Definition of barley.
810.202 Definition of other terms.

Principles Governing the Application of Standards

810.203 Basis of determination.

Grades and Grade Requirements

810.204 Grades and grade requirements for the subclasses Six-rowed Malting Barley and Six-rowed Blue Malting Barley.
810.205 Grades and grade requirements for the subclasses Two-rowed Malting Barley.
810.206 Grades and grade requirements for the subclasses Six-rowed Barley, Two-rowed Barley, and the class Barley.

Special Grades and Special Grade Requirements

810.207 Special grades and special grade requirements.

Subpart C—U.S. Standards for Corn

Terms Defined

810.401 Definition of corn.
810.402 Definition of other terms.

Principles Governing the Application of Standards

810.403 Basis of determination.

Grades and Grade Requirements

810.404 Grades and grade requirements for Corn.

Special Grades and Special Grade Requirements

810.405 Special grades and special grade requirements.

Subpart D—U.S. Standards for Flaxseed

Terms Defined

810.601 Definition of flaxseed.
810.602 Definition of other terms.

Principles Governing the Application of Standards

810.603 Basis of determination.

Grades and Grade Requirements

810.604 Grades and grade requirements for Flaxseed.

Subpart E—U.S. Standards for Mixed Grain

Terms Defined

810.801 Definition of mixed grain.
810.802 Definition of other terms.

Principles Governing the Application of Standards

810.803 Basis of determination.

Grades and Grade Requirements

810.804 Grades and grade requirements for Mixed Grain.

Special Grades and Special Grade Requirements

810.805 Special grades and special grade requirements.

Subpart F—U.S. Standards for Oats

Terms Defined

810.1001 Definition of oats.
810.1002 Definition of other terms.

Principles Governing the Application of Standards

810.1003 Basis of determination.

Grades and Grade Requirements

810.1004 Grades and grade requirements for Oats.

Special Grades and Special Grade Requirements

810.1005 Special grades and special grade requirements.

Subpart G—U.S. Standards for Rye

Terms Defined

810.1201 Definition of rye.
810.1202 Definition of other terms.

Principles Governing the Application of Standards

810.1203 Basis of determination.

Grades and Grade Requirements

810.1204 Grades and grade requirements for Rye.

Special Grades and Special Grade Requirements

810.1205 Special grades and special grade requirements.

Subpart H—U.S. Standards for Sorghum

Terms Defined

810.1401 Definition of sorghum.
810.1402 Definitions of other terms.

Principles Governing the Application of Standards

810.1403 Basis of determination.

Grades and Grade Requirements

810.1404 Grades and grade requirements for Sorghum.

Special Grades and Special Grade Requirements

810.1405 Special grades and special grade requirements.

Subpart I—U.S. Standards for Soybeans

Terms Defined

810.1601 Definition of soybeans.
810.1602 Definition of other terms.

Principles Governing Application of Standards

810.1603 Basis of determination.

Grades and Grade Requirements

810.1604 Grades and grade requirements for Soybeans.

Special Grades and Special Grade Requirements

810.1605 Special grades and special grade requirements.

Subpart J—U.S. Standards for Sunflower Seed

Terms Defined

810.1801 Definition of sunflower seed.
810.1802 Definition of other terms.

Principles Governing the Application of Standards

810.1803 Basis of determination.

Grades and Grade Requirements

810.1804 Grades and grade requirements for sunflower seed.

Special Grades and Special Grade Requirements

810.1805 Special grade and special grade requirements.

Subpart K—U.S. Standards for Triticale

Terms Defined

810.2001 Definition of triticale.
810.2002 Definitions of other terms.

Principles Governing the Application of Standards

810.2003 Basis of determination.

Grades and Grade Requirements

810.2004 Grades and grade requirements for triticale.

Special Grades and Special Grade Requirements

810.2005 Special grades and special grade requirements.

Subpart L—U.S. Standards for Wheat

Terms Defined

810.2201 Definition of wheat.
810.2202 Definition of other terms.

Principles Governing the Application of Standards

810.2203 Basis of determination.

Grades and Grade Requirements

810.2204 Grades and grade requirements for wheat.

Special Grades and Special Grade Requirements

810.2205 Special grades and special grade requirements.

Authority: Secs. 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76)

Subpart A—General Provisions

Note.—Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws.

Terms Defined

§ 810.101 Grains for which standards are established.

Grain refers to barley, corn, flaxseed, mixed grain, oats, rye, sorghum, soybeans, sunflower seed, triticale, and wheat. Standards for these food grains, feed grains, and oilseeds are established under the United States Grain Standards Act.

§ 810.102 Definitions of other terms.

Unless otherwise stated, the definitions in this section apply to all grains. All other definitions unique to a particular grain are contained in the appropriate subpart for that grain.

(a) *Distinctly low quality.* Grain that is obviously of inferior quality because it is in an unusual state or condition, and that cannot be graded properly by use of other grading factors provided in the standards. Distinctly low quality includes the presence of any objects too large to enter the sampling device, i.e., large stones, wreckage, or similar objects.

(b) *Moisture.* Water content in grain as determined, by an approved device, according to procedures prescribed in FGIS Instructions.

(c) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate in water.

(d) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic inches). Test weight per bushel in the U.S. Standards for Barley, Corn, Mixed Grain, Oats, Sorghum, and Soybeans, is determined on the original sample. Test weight per bushel in the U.S. Standards for Flax seed, Rye, Sunflower Seed, Triticale, and Wheat is determined after mechanically cleaning the original sample. Test weight per bushel is recorded to the nearest tenth pound.

(e) *Whole kernels.* Grain with ¼ or less of the kernel removed.

Principles Governing the Application of Standards

§ 810.103 Basis of determination.

(a) *Distinctly low quality.* The determination of distinctly low quality is made on the basis of the lot as a whole at the time of sampling when a condition exists that may or may not appear in the representative sample and/or the sample as a whole.

(b) *Certain quality determinations.* Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, cockleburs, crotalaria seeds, dockage, garlic, live insect infestation, large stones, moisture, temperature, an unknown foreign substance(s), and a commonly recognized harmful or toxic substance(s) is made on the basis of the sample as a whole. When a condition exists that may not appear in the representative sample, the determination may be made on the basis of the lot as a whole at the time of sampling according to procedures prescribed in FGIS Instructions.

(c) *All other determinations.* The basis of determination for all other factors is contained in the individual standards.

§ 810.104 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the grain standards are applicable to grain produced and harvested under normal environmental conditons. Abnormal environmental conditions during the production and harvest of grain may require minor temporary modifications in the equipment or procedures to may require minor temporary modifications in the equipment or procedures to obtain results that would have been expected under normal conditions. When these adjustments are necessary, proper notification will be made in a timely manner.

§ 810.105 Percentages.

(a) *Rounding.* Percentages are determined on the basis of weight and are rounded as follows:

(1) When the figure to be rounded is followed by a figure greater than or equal to 5, round to the next higher figure; e.g., report 6.362 as 6.4, 0.3507 as 0.4, and 2.45 as 2.5

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., report 8.3499 as 8.3, and 1.22 as 1.2.

(b) *Recording.* The percentage of ergot is recorded to the nearest hundredth percent. The percentages of all other

factors are recorded to the nearest tenth of a percent.

Grades, Grade Requirements, and Grade Designations

§ 810.106 Grades and grade requirements.

The grades and grade requirements for each grain (except mixed grain) are shown in the grade table(s) of the respective standards. Mixed grain grade requirements are not presented in tabular form.

§ 810.107 Grade designations.

(a) *Grade designations for grain.* The grade designations include in the following order (1) the letters "U.S."; (2) the number of the grade or the words "Sample grade"; (3) when applicable, the special grade(s); (4) when applicable, the subclass; (5) the class or kind of grain; (6) when applicable, the word "dockage" together with the percentage thereof; and (7) when applicable, in the case of a mixed class or mixed grain, the remarks section of the certificate shall include in the order of predominance, the name and approximate percentage of the classes or in the case of mixed grain, the grains present in excess of 10.0 percent that comprise the mixture and when applicable, the words *other grains* followed by a statement of the percentage of the combined quantity of those kinds of grains, each of which is present in quantity less than 10.0 percent shall be shown in the remarks section of the certificate.

(b) *Optional grade designations.* In addition to paragraph (a) above, grain may be certificated under certain conditions as described in FGIS Instructions when supported by official analysis, as "U.S. No. 2 or better (*type of grain*)", "U.S. No. 3 or better (*type of grain*)", and the like.

Special Grades, Special Grade Requirements, and Special Grade Designations

§ 810.108 Special grades and special grade requirements.

A special grade serves to draw attention to a special factor or condition present in the grain and, when applicable, is supplemental to the grade assigned under § 810.107. Special grades are identified and requirements are established in each respective grain standard.

§ 810.109 Special grade designations.

Special grade designations are shown as prescribed in § 810.107. Multiple special grade designation will be listed in alphabetical order.

Subpart B—United States Standards for Barley

Terms Defined

§ 810.201 Definition of barley.

Grain that, before the removal of dockage, consists of 50.0 percent or more of whole kernels of cultivated barley (*Hordeum vulgare* L. and *H. distichum* L.) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act. The term "barley" as used in these standards does not include hull-less barley.

§ 810.202 Definition of other terms.

(a) *Black barley.* Barley with black hulls.

(b) *Broken kernels.* Barley with more than ¼ of the kernel removed.

(c) *Classes.* There are three classes for barley: Six-rowed Barley, Two-rowed Barley, and Barley.

(1) *Six-rowed Barley.* Barley of the six-rowed type with white hulls that contains not more the 10.0 percent of two-rowed barley or black barley, either singly or combined. This class is divided into the following three subclasses:

(i) *Six-rowed Malting Barley.* Six-rowed barley of a suitable malting type that has 90.0 percent or more of kernels with white aleurone layers; that is not semisteely in mass; that is not badly stained or materially weathered, bleached, blighted, ergoty, garlicky, infested, or smutty; and that otherwise meets the grade requirements for the subclass Six-rowed Malting Barley.

(ii) *Six-rowed Blue Malting Barley.* Six-rowed barley of a suitable malting type that has 90.0 percent or more of kernels with blue aleurone layers; that is not semisteely in mass; that is not badly stained or materially weathered, bleached, blighted, ergoty, garlicky, infested, or smutty, and that otherwise meets the grade requirements for the subclass Six-rowed Malting Barley.

(iii) *Six-rowed Barley.* Any barley of the class Six-rowed Barley that does not meet the requirements of the subclass Six-rowed Malting Barley or Six-rowed Blue Malting Barley.

(2) *Two-rowed Barley.* Barley of the two-rowed type with white hulls that contains not more than 10.0 percent of six-rowed barley or black barley, either singly or combined. This class is divided into the following two subclasses:

(i) *Two-rowed Malting Barley.* Two-rowed barley of a suitable malting type, that is not semisteely in mass; that is not badly stained or materially weatherd, bleachd, blighted, ergoty, garlicky, infested, or smutty; and that otherwise meets the grade requirements for the subclass Two-rowed Malting Barley.

(ii) *Two-rowed Barley.* Two-rowed barley that does not meet the requirements of the subclass Two-rowed Malting Barley.

(3) *Barley.* Barley that does not meet the requirements for the classes Six-rowed Barley or Two-rowed Barley, or that contains more than 10.0 percent of black barley.

(d) *Damaged kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that are: badly ground-damaged, badly weather-damaged, diseased, frost-damaged (major), germ-damaged, heat-damaged (major and minor), insect-bored, mold-damaged (major), sprout-damaged, or otherwise materially damaged.

(e) *Dockage.* All matter other than barley that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS Instructions. Also, underdeveloped, shriveled, and small pieces of barley kernels removed in properly separating the material other than barley and that cannot be recovered by properly rescreening or recleaning.

(f) *Foreign material.* All matter other than barley, other grains, and wild oats that remains in the sample after removal of dockage.

(g) *Frost-damaged kernels (major).* Kernels, pieces of barley kernels, other grains, and wild oats that are badly shrunken and distinctly discolored black or brown by frost.

(h) *Frost-damaged kernels (minor).* Kernels, and pieces of barley kernels that are distinctly indented, immature or shrunken in appearance or that are light green in color as a result of frost before maturity.

(i) *Germ-damaged kernels.* Kernels, pieces of barley kernels, other grains, and wild oats that have dead or discolored germ ends.

(j) *Heat-damaged kernels (major).* Kernels, pieces of barley kernels, other grains, and wild oats that are materially discolored and damaged by heat.

(k) *Heat-damaged kernels (minor).* Kernels, pieces of barley kernels, other grains, and wild oats that are slightly discolored as a result of heat.

(l) *Mold-damaged kernels (major).* Kernels, pieces of barley kernels, other grains, and wild oats that are weathered and contain considerable evidence of mold.

(m) *Mold-damaged kernels (minor).* Kernels and pieces of barley kernels containing slight evidence of mold.

(n) *Other grains.* Corn, cultivated buckwheat, einkorn, emmer, flaxseed,

guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, triticale, and wheat.

(o) *Plump barley.* Barley that remains on top of a 6/64 x 3/4 slotted-hole sieve after sieving according to procedures prescribed in FGIS Instructions.

(p) *Sieves.* (1) *5/64 × 3/4 slotted-hole sieve.* A metal sieve 0.032 inch thick with slotted performations 0.0781 (5/64) inch by 0.750 (3/4) inch.

(2) *5½/64 × 3/4 slotted-hole sieve.* A metal sieve 0.032 inch thick wich slotted perforations 0.985 (5½/64) inch by 0.750 (3/4) inch.

(3) *6/64 × 3/4 slotted-hole sieve.* A metal sieve 0.032 inch thick with slotted perforation 0.0937 (6/64) inch by 0.750 (3/4) inch.

(q) *Skinned and broken kernels.* Barley kernels that have one-third or more of the hull removed, or that the hull is loose or missing over the germ, or broken kernels, or whole kernels that have a part or all of the germ missing.

(r) *Sound barley.* Kernels and pieces of barley kernels that are not damaged, as defined under (d) of this section.

(s) *Suitable malting type.* Varieties of malting barley that are approved by the Federal Grain Inspection Service as being suitable for malting purposes. The recommended varieties are listed in FGIS Instructions.

(t) *Thin barley.* Six-rowed barley which passes through a 5/64 × 3/4 slotted-hole sieve and two-rowed barley which passes through a 5½/64 × 3/4 slotted-hole sieve after sieving according to procedures prescribed in FGIS Instructions.

(u) *Wild Brome grasses.* Seeds of brome grasses such as *Bromus rigidus* Roth that have harsh awns that are injurious when fed to livestock.

(v) *Wild oats.* Seeds of *Avena fatua* L. and *A. sterilis.* L.

Principles Governing the application of Standards

§ 810.203 Basis of determination.

Each determination of heat-damaged kernels (major and minor) and white or blue aleurone layers in Six-rowed Barley is made on pearled, dockage-free barley. Other determinations not specifically provided for under the general provisions are made on the basis of the grain when free from dockage, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage.

Grades and Grade Requirements

§ 810.204 Grades and grade requirements for the subclasses Six-rowed Malting Barley and Six-rowed Blue Malting Barley.

Grade [1]	Minimum limits of—				Maximum limits of—				
	Test weight per bushel	Suitable malting type	Sound barley [2]	Damaged kernels [2]	Foreign material	Other grains	Skinned and broken kernels	Thin barley	Black barley
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	47.0	95.0	97.0	2.0	1.0	2.0	4.0	7.0	0.5
U.S. No. 2	45.0	95.0	94.0	3.0	2.0	3.0	6.0	10.0	1.0
U.S. No. 3	43.0	95.0	90.0	4.0	3.0	5.0	8.0	15.0	2.0

[1] Six-rowed Malting Barley and Six-rowed Blue Malting Barley may contain: not more than 1.9 percent of frost-damaged kernels that may include not more than 0.4 percent of frost-damaged kernels (major); not more than 0.2 percent of heat-damaged kernels that may include not more than 0.1 percent of heat-damaged kernels (major) and may contain unlimited amounts of mold-damaged Kernels (minor); however, mold-damaged Kernels (major) count as damaged kernels and against sound barley limits.

[2] Frost-damaged kernels (minor) and mold-damaged kernels (minor) are not considered damaged kernels or scored against sound barley.

NOTE.—Six-rowed barley that meets the requirements of U.S. No. 1 to U.S. No. 3, inclusive, for the subclasses Six-rowed Malting Barley and Six-rowed Blue Malting is classified and graded according to the requirements in this section. Otherwise, it will be graded according to the requirements in § 810.206

§ 810.205 Grades and grade requirements for the subclass Two-rowed Malting Barley.

Grade [1]	Minimum limits of—				Maximum limits of—			
	Test weight per bushel	Suitable malting type	Sound barley [2]	Wild oats	Foreign material	Skinned and broken kernels	Thin barley	Black barley
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1 Choice	50.0	97.0	98.0	1.0	0.5	5.0	5.0	0.5
U.S. No. 1	48.0	97.0	98.0	1.0	0.5	7.0	7.0	0.5
U.S. No. 2	48.0	95.0	96.0	2.0	1.0	10.0	10.0	1.0
U.S. No. 3	48.0	95.0	93.0	3.0	2.0	10.0	10.0	2.0

[1] Two-rowed Malting Barley may contain: not more than 1.9 percent of frost-damaged kernels that may include not more than 0.4 percent of frost-damaged kernels (major); not more than 0.2 percent of heat-damaged kernels, that may include not more than 0.1 percent of heat-damaged kernels (major), and not more than 1.9 percent of mold-damaged kernels that may include not more than 0.4 percent of mold-damaged kernels (major).

[2] Frost-damaged kernels (minor) and mold-damaged kernels (minor) are not scored against sound barley.

NOTE.—Two-rowed barley that meets the requirements of U.S. No. 1 Choice to U.S. 3, inclusive, for the subclass Two-rowed Malting Barley is classified and graded according to the requirements in this section. Otherwise, it shall be graded according to the requirements in § 810.206.

§ 810.206 Grades and grade requirements for the subclass Six-rowed Barley, Two-rowed Barley.

Grade	Minimum limits of—				Maximum limits of—			
	Test weight per bushel	Sound barley	Damaged kernels [1]	Heat damaged kernels	Foreign material	Broken kernels	Thin barley	Black barley [2]
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	47.0	97.0	2.0	0.2	1.0	4.0	10.0	0.5
U.S. No. 2	45.0	94.0	4.0	0.3	2.0	8.0	15.0	1.0
U.S. No. 3	43.0	90.0	6.0	0.5	3.0	12.0	25.0	2.0

Grade	Minimum limits of—				Maximum limits of—			
	Test weight per bushel	Sound barley	Damaged kernels [1]	Heat damaged kernals	Foreign material	Broken kernels	Thin barley	Black barley [2]
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 4[3]	40.0	85.0	8.0	1.0	4.0	18.0	35.0	5.0
U.S. No. 5	36.0	75.0	10.0	3.0	5.0	28.0	75.0	10.0

U.S. Sample grade—
U.S. Sample grade is barley that:
(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or
(b) Contains a quantity of smut so great that one or more of the grade requirements cannot be determined accurately; or
(c) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 8 or more cocklebuns (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of barley; or
(d) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or
(e) Contains the seeds of wild brome grasses; or
(f) Is heating or otherwise of distinctly low quality.

[1] Includes heat-damaged kernels (major). Frost-damaged kernels (minor), and mold-damaged kernels (minor) are not considered as damaged kernels.
[2] These limits do not apply to the class Barley.
[3] Barley that is badly stained or materially weathered is graded not higher than U.S. No. 4.

Special Grades and Special Grade Requirements

§ 810.207 Special grades and special grade requirements.

(a) *Bleached barley.* Barley that, in whole or part, has been treated with sulphurous acid or any other bleaching agent.

(b) *Blighted barley.* Barley that contains more than 4.0 percent of blight-damaged and/or mold-damaged kernels (major).

(c) *Bright barley.* Barley, except bleached barley, that is of exceptionally good nature color.

(d) *Ergoty barley.* Barley that contains more than 0.10 percent ergot.

(e) *Garlicky barley.* Barley that contains three or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets in 500 grams of barley.

(f) *Infested barley.* Barley that is infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(g) *Smutty barley.* Barley that has kernels covered with smut spores to give a smutty appearance in mass, or which contains more than 0.2 percent smut balls.

(h) *Stained barley.* Barley, except bleached barley, that is badly stained or weathered.

(i) *Tough barley.* Barley that contains more than 14.5 percent moisture.

Subpart C—United States Standards for Corn

Terms Defined

§ 810.401 Definition of corn.

Grain that consists of 50.0 percent or more of whole kernels of shelled dent corn and/or shelled flint corn (*Zea mays* L.) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.402 Definition of other terms.

(a) *Classes.* There are three classes for corn: Yellow Corn, White Corn, and Mixed Corn.

(1) *Yellow Corn.* Corn that is yellow-kerneled and contains not more than 5.0 percent of corn of other colors. Yellow kernels of corn with a slight tinge of red and considered yellow corn.

(2) *White Corn.* Corn that is white-kerneled and contains not more than 2.0 percent of corn of other colors. White kernels of corn with a slight tinge of light straw or pink color are considered white corn.

(3) *Mixed Corn.* Corn that does not meet the color requirements for either of the classes Yellow Corn or White Corn and includes white-capped yellow corn.

(b) *Broken corn and foreign material.* All matter that passes readily through a $^{12}/_{64}$ round-hole sieve and all matter other than corn that remains in the sieved sample after sieving according to procedures prescribed in FGIS Instructions.

(c) *Damaged kernels.* Kernels and pieces of corn kernels that are: badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(d) *Heat-damaged kernels.* Kernels and pieces of corn kernels that are materially discolored and damaged by heat.

(e) *Sieve—$^{12}/_{64}$ round-hole sieve.* A metal sieve 0.032 inch thick with round perforations 0.1875 ($^{12}/_{64}$) inch in diameter which are ¼ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent row.

Principles Governing the Application of Standards

§ 810.403 Basis of determination.

Each determination of class, damaged kernels, heat-damaged kernels, flint corn, and flint and dent corn is made on the basis of the grain after the removal of the broken corn and foreign material. Other determinations not specifically provided for under the general provisions are made on the basis of the grain as a whole, except the determination of ordor is made on either the basis of the grain as a whole or the grain when free from broken corn and foreign material.

Grades and Grade Requirements

§ 810.404 Grades and grade requirements for corn.

Grade	Minimum test weight per bushel	Maximum limits of—		
		Damaged kernels		Broken corn and foreign material
		Heat damaged kernels	Total	
	(pounds)	(percent)	(percent)	(percent)
U.S. No. 1	56.0	0.1	3.0	2.0
U.S. No. 2	54.0	0.2	5.0	3.0
U.S. No. 3	52.0	0.5	7.0	4.0
U.S. No. 4	49.0	1.0	10.0	5.0
U.S. No. 5	46.0	3.0	15.0	7.0

U.S. Sample grade—
U.S. Sample grade is corn that:
(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or
(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 8 or more cocklebuns (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more roden pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of corn; or
(c) Has a musty, sour, or commercially objectionable foreign odor; or
(d) Is heating or otherwise of distinctly low quality.

Special Grades and Special Grade Requirements

§ 810.405 Special grades and special grade requirements.)

(a) *Flint corn.* Corn that consists of 95.0 or more of flint corn.

(b) *Flint and dent corn.* Corn that consists of a mixture of flint and dent corn containing more than 5.0 percent but less than 95.0 percent of flint corn.

(c) *Infested corn.* Corn that is infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(d) *Waxy corn.* Corn that consists of 95.0 percent of more waxy corn, according to procedures prescribed in FGIS Instructions.

Subpart D—United States Standards for Flaxseed

Terms Defined

§ 810.601 Definition of flaxseed.

Grain that, before the removal of dockage, consists of 50.0 percent or more of common flaxseed (*Linum usitatissimum* L.) and not more than 10.0 percent of other grains for which standards have been established under the Unites States Grain Standards Act and which, after the removal of dockage, contains 50.0 percent or more of whole flaxseed.

§ 810.602 Definition of other terms.

(a) *Damaged kernels.* Kernels and Pieces of flaxseed kernels that are: badly ground-damaged, badly weather-damaged, deseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(b) *Dockage.* All matter other than flaxseed that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS Instructions. Also, underdeveloped, shriveled, ans small pieces of flaxseed kernels removed in properly separating the material other than flaxseed and that cannot be recovered by properly rescreening or recleaning.

(c) *Heat-damaged kernels.* Kernels and pieces of flaxseed kernels that are materially discolored and damaged by heat.

(d) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, triticale, wheat, and wild oats.

Principles Governing the Application of Standards

§ 810.603 Basis of determination.

Other determinations not specifically provided for under the general provisions are made on the basis of the grain when free from dockage, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage.

Grades and Grade Requirements

§ 810.604 Grades and grade requirements for flaxseed.

Grade	Minimum test weight per bushel	Maximum limits of— Damaged kernels: Heat damaged kernels	Maximum limits of— Damaged kernels: Total
	(pounds)	(percent)	(percent)
U.S. No. 1	49.0	0.2	10.0
U.S. No. 2	47.0	0.5	15.0
U.S. Sample grade			

U.S. Sample grade is flaxseed that:

(a) Does not meet the requirements for the grades U.S. Nos. 1 or 2; or

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles or an unknown foreign substance(s), or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of flaxseed; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor), or

(d) Is heating or otherwise of distinctly low quality.

Subpart E—United States Standards for Mixed Grain

Terms Defined

§810.801 Definition of mixed grain.

Any mixture of gains for which standards have been established under the United States Grain Standards Act, provided that such mixture does not come within the requirements of any of the standards for such grains; and that such mixture consists of 50.0 percent or more of whole kernels of grain and/or whole and broken soybeans which will not pass through a 5/64 triangular-hole sieve and/or whole flaxseed that passes through such a sieve after sieving according to procedures prescribed in FBIS Instructions.

§ 810.802 Definition of other terms

(a) *Grades.* U.S. Mixed Grain, or U.S. Sample grade Mixed Grain, and special grades.

(b) *Foreign material and fines.* All matter other than whole flaxseed that passes through a 5/64 triangular-hole sieve, and all matter other than grains or which standards have been established under the Act, that remains in the sieved sample.

(c) *Damaged kernels.* Kernels and pieces of grain kernels for which standards have been established under the Act, that are: badly ground-damaged, badly-weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(d) *Heat-damaged kernels.* Kernels and pieces of grain kernels for which standards have been established under the Act, and that are materially discolored and damaged by heat.

(e) *Sieve—5/64 triangular-hole sieve.* A metal sieve 0.032 inch thick with equilateral triangular perforations the inscribed circles of which are 0.0781 (5/64) inch in diameter.

Principles Governing the Application of Standards

§ 801.803 Basis of determination

Each determination of damaged and heat-damaged kernels, and the percentage of each kind of grain in the mixture is made on the basis of the sample after removal of foreign material and fines. Other determinations not specifically provided for under the general provisions are made on the basis of the grain as a whole, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from foreign material and fines.

Grades and Grade Requirements

§ 810.804 Grades and grade requirements for mixed grain.

(a) *U.S. Mixes Grain (Grade).* Mixed grain with not more than 15.0 percent of damaged kernels, and not more than 3.0 percent of heat-damaged kernels, and that otherwise does not meet the requirements for the grade U.S. Sample grade Mixed Grain.

(b) *U.S. Sample grade Mixed Grain.* Mixed grain that:

(1) Does not meet the requirements for the grade U.S. Mixed Grain; or

(2) Contains more than 16.0 percent moisture; or

(3) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of broken glass, 3 or more Crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 8 or more cockleburs (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more pieces of an unknown foreign substance(s) or a recognized harmful or toxic substance(s), 10 or more pieces or

rodent pellets, bird droppings, or an equivalent quantity or other animal filth per 1,000 grams of mixed grain; or

(4) Is musty, sour, or heating; or

(5) Has any commercially objectionable foreign ordor except smut or garlic; or

(6) Is otherwise of distinctly low quality.

Special Grades and Special Grade Requirements

§ 810.805 Special grades and special grade requirements.

(a) Blighted mixed grain. Mixed grain in which barley predominates and that contains more than 4.0 percent of blight-damaged and/or mold-damaged barley kernels.

(b) *Ergoty mixed grain.* (1) Mixed grain in which rye or wheat predominates and that contains more than 0.30 percent erogot, or

(2) any other mixed grain that contains more than 0.10 percent ergot.

(c) *Garlicky mixed grain.* (1) Mixed grain in which wheat, rye, or triticale predominates, and that contains 2 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets in 1,000 grams of mixed grain; or

(2) Any other mixed grain that contains 4 or more green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets, in 500 grams of mixed grain.

(d) *Infested mixed grain.* Mixed grain that is infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(e) *Smutty mixed grain.* (1) Mixed grain in which rye, triticale, or wheat predominates, and that contains 15 or more average size smut balls, or an equivalent quantity of smut spores in 250 grams of mixed grain, or

(2) Any other mixed grain that has the kernels covered with smut spores to give a smutty appearance in mass, or that contains more than 0.2 percent smut balls.

(f) *Treated mixed grain.* Mixed grain that has been scored, limed, washed, sulfured, or treated in such a manner that its true quality is not reflected by the grade designation U.S. Mixed Grain or U.S. Sample grade Mixed Grain.

Subpart F—United States Standards for Oats

Terms Defined

§ 810.1001 Definition of oats.

Grain that consists of 50.0 percent or more of oats (*Avena sativa* L. and *A. byzantina C.* Kock) and may contain, singly or in combination, not more than 10.0 percent of wild oats and other grains for which standards have been established under the United States Grain Standards Act.

§ 810.1002 Defintion of other terms.

(a) *Fine seeds.* All matter that passes through a 5/64 triangular-hole sieve after sieving according to procedures prescribed in FGIS Instructions.

(b) *Foreign material.* All matter other than oats, wild oats, and other grains.

(c) *Heat-damaged kernels.* Kernels and pieces of oat kernels, other grains, and wild oats that are materially discolored and damaged by heat.

(d) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, triticale, and wheat.

(e) *Sieves.*—(1) 5/64 *triangular-hole sieve.* A metal sieve 0.032 inch thick with equilateral triangular perforations the inscribed cricles of which are 0.0781 (5/64) inch in diameter.

(2) *0.064 x 3/8 oblong-hole sieve.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 (3/8) inch.

(f) *Sound oats.* Kernels and pieces of oat kernels (except wild oats) that are not: badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(g) *Wild oats.* Seeds of *Avena fatua* L. and *A. sterilis* L.

Principles Governing the Application of Standards

§ 810.1003 Basis of determination.

Other determinations not specifically provided for under the general provisions are made on the basis of the grain as a whole.

Grades and Grade Requirements

§ 810.1004 Grades and Grade Requirements for Oats.

Grade	Minimum limits—		Maximum limits—		
	Test weight per bushel	Sound oats	Heat-damaged kernels	Foreign material	Wild oats
	(pounds)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	36.0	97.0	0.1	2.0	2.0
U.S. No. 2	33.0	94.0	0.3	3.0	3.0
U.S. No. 3[1]	30.0	90.0	1.0	4.0	5.0
U.S. No. 4[2]	27.0	80.0	3.0	5.0	10.0
U.S. Sample grade—					

U.S. Sample grade are oats which:

(a) Do not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or

(b) Contain 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 8 or more cockleburm (*Xanthium* spp.) or similar seeds singly or in combination, 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings or equivalent quantity of other animal filth per 1,000 grams or oats; or

(c) Have a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(d) Are heating or otherwise or distinctly low quality.

[1] Oats that are slightly weathered shall be graded not higher than U.S. No. 3.

[2] Oats that are badly stained or materially weathered shall be graded not higher than U.S. No. 4.

Special Grades and Special Grade Requirements

§ 810.1005 Special grades and special grade requirements.

(a) *Bleached oats.* Oats that in whole or in part, have been treated with sulphurous acid or any other bleaching agent.

(b) *Bright oats.* Oats, except Bleached oats, that are of good natural color.

(c) *Ergoty oats.* Oats that contain more than 0.10 percent ergot.

(d) *Extra-heavy oats.* Oats that have a test weight per bushel of 40 pounds or more.

(e) *Garlicky oats.* Oats that contain 4 or more green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in 500 grams of oats.

(f) *Heavy oats.* Oata that have a test weight per bushel of 38 pounds or more but less than 40 pounds.

(g) *Infested oats.* Oats that are infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(h) *Smutty oats.* Oats that have kernels covered with smut spores to give smutty appearance in mass, or that contain more than 0.2 percent smut balls.

(i) *Thin oats.* Oats that contain more than 20.0 percent of oats and other matter, that pass through a 0.064 x ⅜ oblong-hole sieve but remain on top of a 5/64 triangular-hole sieve after sieving according to procedures prescribed in FGIS Instructions.

Subpart G—United States Standards for Rye

Terms Defined

§ 810.1201 Definition of rye.

Grain that, before the removal of dockage, consists of 50.0 percent or more of common rye (*Secale cereale* L.) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act and that, after the removal of dockage, contains 50.0 percent or more of whole rye.

§ 810.1202 Definition of other terms.

(a) *Damaged kernels.* Kernels, pieces of rye kernels, and other grains that are: badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(b) *Dockage.* All matter other than rye that can be removed from the original sample by use of an approved device in accordance with procedures prescribed in FGIS Instructions. Also, underdeveloped, shriveled, and small pieces of rye kernels removed in properly separating the material other than rye and that cannot be recovered by properly rescreening and recleaning.

(c) *Foreign material.* All matter other than rye that remains in the sample after the removal of dockage.

(d) *Heat-damaged kernels.* Kernels, pieces of rye kernels, and other grains that are materially discolored and damaged by heat.

(e) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, triticale, wheat, and wild oats.

(f) *Sieve—0.064 x ⅜ oblong-hole sieve.* A metal sieve 0.032 inch thick with oblong perforations 0.064 by 0.375 (⅜) inch.

(g) *Thin rye.* Rye and other matter that passes through a 0.064 x ⅜ inch oblong-hole sieve after sieving according to procedures prescribed in FGIS Instructions.

Principles Governing the Application of Standards

§ 810.1203 Basis of determination.

Other determinations not specifically provided for under the general provisions are made on the basis of the grain when free from dockage, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage.

Grades and Grade Requirements

§ 810.1204 Grades and grade requirements for Rye.

Grade	Minimum test weight per bushel	Maximum limits of—				Thin rye
		Foreign material		Damaged kernels		
		Foreign matter other than wheat	Total	Heat damaged	Total	
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	56.0	1.0	3.0	0.2	2.0	10.0
U.S. No. 2	54.0	2.0	6.0	0.2	4.0	15.0
U.S. No. 3	52.0	4.0	10.0	0.5	7.0	25.0
U.S. No. 4	49.0	6.0	10.0	3.0	15.0	—

U.S. Sample grade—

U.S. Sample grade is rye that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or

(b) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of rye; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(d) Is heating or otherwise of distinctly low quality.

Special Grades and Special Grade Requirements

§ 810.1205 Special grades and special grade requirements.

(a) *Plump rye.* Rye that contain not more than 5.0 percent of rye and other matter that passes through a 0.064 x ⅜ oblong-hole sieve.

(b) *Ergoty rye.* Rye that contains more than 0.30 percent of ergot.

(c) *Light garlicky rye.* Rye that contains in a 1,000-gram portion two or more, but not more than six, green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(d) *Garlicky rye.* Rye that contains in a 1,000-gram portion more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(e) *Infested rye.* Rye that is infested with live weevils or other insects

injurious to stored grain according to procedures prescribed in FGIS Instructions.

(f) *Light smutty rye.* Rye that has an unmistakable order of smut, or that contains in a 250-gram portion smut balls, portions of smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(g) *Smutty rye.* Rye that contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls but not in excess of a quantity equal to 30 smut balls of average size.

Subpart H—United States Standards for Sorghum

Terms Defined

§ 810.1401 Definition of sorghum.

Grain that, before the removal of dockage, consists of 50.0 percent or more of whole kernels of sorghum (*Sorghum bicolor* (L.) Moench) excluding nongrain sorghum and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.1402 Definitions of other terms.

(a) *Broken kernels,* foreign material, and other grains. All matter, other than dockage, that passes through a 5/64 triangular-hole sieve after sieving according to procedures prescribed in FGIS Instructions and all matter other than sorghum that remains in the sieved sample.

(b) *Classes.* There are four classes for sorghum: White Sorghum, Yellow Sorghum, Brown Sorghum, and Mixed Sorghum.

(1) *White Sorghum.* Sorghum with white or translucent pericarps. Such sorghum containings spots that singly or in combination cover 25.0 percent or less of the kernel is considered as White Sorghum. White Sorghum will contain not more than 2.0 percent (singly or combined) of kernels of sorghum of other colors.

(2) *Yellow Sorghum.* Sorghum with yellow, salmon-pink, red, white, or translucent pericarps, that contains not more than 10.0 percent of sorghum with brown pericarps or pigmented subcoats, and that does not meet the requirements for the class White Sorghum.

(3) *Brown Sorghum.* Sorghum with brown pericarps or pigmented subcoats that contains not more than 10.0 percent of sorghum of other colors.

(4) *Mixed Sorghum.* Sorghum that does not meet the requirements for any of the classes White Sorghum, Yellow Sorghum, or Brown Sorghum.

(c) *Damaged kernels.* Kernels, pieces of sorghum kernels, and other grains that are: badly ground damaged, badly weather damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(d) *Dockage.* All matter other than sorghum that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS Instructions. Also, underdeveloped, shriveled, and small pieces of sorghum kernels removed in properly separating the material other than sorghum and that cannot be recovered by properly rescreening or recleaning

(e) *Heat-damaged kernels.* Kernels, pieces of sorghum kernels, and other grains that are materially discolored and damaged as a result of heating.

(f) *Nongrain sorghum.* Seeds of broomcorn, Johnson-grass, *Sorghum almum* Parodi, sorghum-sudangrass hybrids, sorgrass, sudangrass, and sweet Sorghum (*sorgo*).

(g) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, soybeans, spelt, sunflower seed, sweet corn, triticale, wheat, and wild oats.

(h) *Pericarp.* The pericarp is the outer layers of the sorghum grain and is fused to the seedcoat.

(i) *Sieves*—(1) *5/64 triangular-hole sieve.* A metal sieve 0.032 inch thick with equilateral triangular perforations the inscribed circles of that are 0.0781 (5/64) inch in diameter.

(2) *2-1/2/64 round-hole sieve.* A metal sieve 0.032 inch thick with round holes 0.0391 (2-1/2/64) inch in diameter.

Principles Governing the Application of Standards

§ 810.1403 Basis of determination.

Each determination of broken kernels, foreign material, and other grains is made on the basis of the grain when free from dockage. Each determination of class, damaged kernels, heat-damaged kernels, and stones is made on the basis of the grain when free from dockage and broken kernels, foreign material, and other grains. Other determinations not specifically provided for in the general provisions are made on the basis of the grain as a whole or the grain when free from dockage except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage and broken kernels, foreign material, and other grains.

Grades and Grade Requirements

§ 810.1404 Grades and grade requirements for sorghum.

Grade	Minimum test weight per bushel	Maximum limits of—		
		Damaged kernels		Broken kernels, foreign material and other grains
		Heat damaged	Total	
	(pounds)	(percent)	(percent)	(percent)
U.S. No. 1	57.0	0.2	2.0	4.0
U.S. No. 2	55.0	0.5	5.0	8.0
U.S. No. 3 [1]	53.0	1.0	10.0	12.0
U.S. No. 4	51.0	3.0	15.0	15.0

U.S. Sample grade—

U.S. Sample grade is sorghum that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, or 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of sorghum; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut odor); or

(d) Is badly weathered, heating, or distinctly low quality.

[1] Sorghum which is distinctly discolored shall be graded not higher than U.S. No. 3.

Special Grades and Special Grade Requirements

§ 810.1405 Special grades and special grade requirements.

(a) *Infested sorghum.* Sorghum that is infested with live weevils or other live insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(b) *Smutty sorghum.* Sorghum that has kernels covered with smut spores to give a smutty appearance in mass, or that contains 20 or more smut balls in 100 grams of sorghum.

Subpart I—United States Standards for Soybeans

Terms Defined

§ 810.1601 Definition of soybeans.

Grain that consists of 50.0 percent or more of whole or broken soybeans (*Glycine max* (L.) Merr.) that will not pass through an 8/64 round-hole sieve and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.1602 Definition of other terms.

(a) *Classes.* There are two classes for soybeans: Yellow Soybeans and Mixed Soybeans.

(1) *Yellow Soybeans.* Soybeans that have yellow or green seed coats and which in cross section, are yellow or have a yellow tinge, and may include

not more than 10.0 percent of soybeans of other colors.

(2) *Mixed Soybeans.* Soybeans that do not meet the requirements of the class Yellow soybeans.

(b) *Damaged kernels.* Soybeans and pieces of soybeans that are: badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, stinkbug-stung, or otherwise materially damaged. Stinkbug-stung kernels are considered damaged kernels at the rate of one-fourth of the actual percentage of the stung kernels.

(c) *Foreign material.* All matter that passes through an 8/64 round-hole sieve and all matter other than soybeans remaining in the sieved sample after sieving according to procedures prescribed in FGIS Instructions.

(d) *Heat-damaged kernels.* Soybeans and pieces of soybeans that are materially discolored and damaged by heat.

(e) *Purple mottled or stained.* Soybeans that are discolored by the growth of a fungus; or by dirt; or by dirt-like substance(s) including nontoxic inocculants; or by other nontoxic substances.

(f) *Soybeans of other colors.* Soybeans that have green, black, brown, or bicolored seed coats. Soybeans that have green seed coats will also be green in cross section. Bicolored soybeans will have seed coats of two colors, one of which is brown or black, and the brown or black color shall cover 50 percent of the seed coats. The hilum of a soybean is not considered a part of the seed coat for this determination.

(g) *Sieve—8/64 round-hold sieve.* A metal sieve 0.032 inch thick perforated with round holes 0.125 (8/64) inch in diameter with approximately 4,736 perforations per square foot.

(h) *Splits.* Soybeans with more than ¼ of the bean removed and that are not damaged.

Principles Governing the Application of Standards

§ 810.1603 Basis of determination.

Each determination of class, heat-damaged kernels, damaged kernels, splits, and soybeans of other colors is made on the basis of the grain when free from foreign material. Other determinations not specifically provided for under the general provisions are made on the basis of the grain as a whole.

Grades and Grade Requirements

§ 810.1604 Grades and grade requirements for Soybeans.

Grade	Minimum test weight per bushel	Maximum limits of—				
		Damaged kernels		Foreign material	Splits	Soybeans of other colors
		Heat damaged	Total			
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	56.0	0.2	2.0	1.0	10.0	1.0
U.S. No. 2	54.0	0.5	3.0	2.0	20.0	2.0
U.S. No. 3 [1]	52.0	1.0	5.0	3.0	30.0	5.0
U.S. No. 4 [2]	49.0	3.0	8.0	5.0	40.0	10.0
U.S. Sample grade—						

U.S. Sample grade is soybeans that:

(a) Do not meet the requirements for U.S. Nos. 1, 2, 3, or 4; or

(b) Contain 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more Crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of soybeans; or

(c) Have a musty, sour, or commercially objectionable foreign odor (except garlic odor); or

(d) Are heating or otherwise of distinctly low quality.

[1] Soybeans that are purple mottled or stained are graded not higher than U.S. No. 3.
[2] Soybeans that are materially weathered are graded not higher than U.S. No. 4.

Special Grades and Special Grade Requirements

§ 810.1605 Special grades and special grade requirements.

(a) *Garlicky soybeans.* Soybeans that contain 5 or more green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in a 1,000 gram portion.

(b) *Infested soybeans.* Soybeans that are infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

Subpart J—United States Standards for Sunflower Seed

Terms Defined

§ 810.1801 Definition of sunflower seed.

Grain that, before the removal of foreign material, consists of 50.0 percent or more of cultivated sunflower seed (*Helianthus annuus* L.) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.1802 Definition of other terms.

(a) *Cultivated sunflower seed.* Sunflower seed grown for oil content. The term seed in this and other definitions related to sunflower seed refers to both the kernel and hull which is a fruit or achene.

(b) *Dehulled seed.* Sunflower seed that has the hull completely removed from the sunflower kernel.

(c) *Damaged sunflower seed.* Seed and pieces of sunflower seed that are: badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, mold-damaged, sprout-damaged, or otherwise materially damaged.

(d) *Foreign material.* All matter other than whole sunflower seeds containing kernels that can be removed from the original sample by use of an approved device and by handpicking a portion of the sample according to procedures prescribed in FGIS Instructions.

(e) *Heat-damaged sunflower seed.* Seed and pieces of sunflower seed that

are materially discolored and damaged by heat.

(f) *Hull (husk).* The ovary wall of the sunflower seed.

(g) *Kernel.* The interior contents of the sunflower seed that are surrounded by the hull.

Principles Governing the Application of Standards

§ 810.1803 Basis of determination.

Each determination of heat-damaged kernels, damaged kernels, test weight per bushel, and dehulled seed is made on the basis of the grain when free from foreign material. Other determinations not specifically provided for in the general provisions are made on the basis of the grain as a whole, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from foreign material.

Grades and Grade Requirements

§ 810.1804 Grades and grades requirements for sunflower seed.

Grade	Minimum test weight per bushel	Maximum limits of—		
		Damaged sunflower seed		Dehulled seed
		Heat damaged	Total	
	(pounds)	(percent)	(percent)	(percent)
U.S. No. 1	25.0	0.5	5.0	5.0
U.S. No. 2	25.0	1.0	10.0	5.0

U.S. Sample grade—

U.S. Sample grade is sunflower seed that:

(a) Does not meet the requirements for the grades U.S. Nos. 1 or 2; or

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sampe weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or a more particles of an unknown foreign substance(s), or a commonly recognized harmful or toxic substances(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 600 grams of sunflower seed; or

(c) Has a musty, sour, or commercially objectionable foreign odor; or

(d) Is heating or otherwise of distinctly low quality

Special Grades and Special Grade Requirements

§ 810.1805 Special grades and special grade requirements.

Infested sunflower seed. Sunflower seed that is infested with live weevils or ther insects injurious to stored grain according to procedures prescribed in FGIS Instructions

Subpart K—United States Standards for Triticale

Terms Defined

§ 810.2001 Definition of triticale.

Grain that, before the removal of dockage, consists of 50.0 percent or more of triticale (*X Triticosecale* Wittmack) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act and that, after the removal of dockage, contains 50.0 percent or more of whole triticale.

§ 810.2002 Definitions of other terms.

(a) *Damaged kernels.* Kernels, pieces of triticale kernels, and other grains that are; badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(b) *Defects.* Damaged kernels, foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for the factor Defects for each numerical grade.

(c) *Dockage.* All matter other than triticale that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS instructions. Also, underdeveloped, shriveled, and small pieces of triticale kernels removed in properly separating the material other than triticale and that cannot be recovered by properly rescreening or recleaning.

(d) *Foreign material.* All matter other than triticale.

(e) *Heat-damaged kernels.* Kernels, pieces of triticale kernels, and other grains that are materially discolored and damaged by heat.

(f) *Other grains.* Barley, corn, cultivated buckwheat, einkorn emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, wheat, and wild oats

(g) *Shrunken and broken kernels.* All matter that passes through a 0.064 × 3/8 oblong-hole sieve after sieving according to procedures prescribed in FGIS Instructions.

(h) *Sieve—0.064 × 3/8 oblong-hole sieve.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 (3/8) inch.

Pinciples governing the Application of Standards

§ 810.2003 Basis of determination.

Each determination of heat-damaged kernels, damaged kernels, material other than wheat and rye, and foreign material (total) is made on the basis of the grain when free from dockage and shrunken and broken kernels. Other determinations not specifically provided for under the general provisions are made on the basis of the grain when free from dockage except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage.

Grades and Grade Requirements

§ 810.2004 Grade and grade requirements for Triticale

Grade	Minimum test weight per bushel	Maximum limits of—					
		Damaged Kernels		Foreign material		Shrunken and broken kernels	Defects [3]
		Heat damaged	Total [1]	Material other than wheat or rye	Total [2]		
	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	48.0	0.2	2.0	1.0	2.0	5.0	5.0
U.S. No. 2	45.0	0.2	4.0	2.0	4.0	8.0	8.0
U.S. No. 3	43.0	0.5	8.0	3.0	7.0	12.0	12.0
U.S. No. 4	41.0	3.0	15.0	4.0	10.0	20.0	20.0

U.S. Sample grade—

U.S. Sample grade is triticale that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or

(b) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent ofthe sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of triticale; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(d) Is heating or otherwise of distinctly low quality.

[1] Includes heat-damaged kernels.

[2] Includes material other than wheat or rye.

[3] Defects include damaged kernels (total), foreign material (total) and shrunken and broken kernels. The sum of these three factors may not exceed the limit for defects for each numerical grade.

Special Grades and Special Grade Requirements

§ 810.2005 Special grades and special grade requirements.

(a) *Ergoty triticale.* Triticale that contains more than 0.10 percent of ergot.

(b) *Light garlicky triticale.* Triticale that contains in a 1,000 gram portion two or more, but not more than six, green garlic bulblets or an equivalent quantity of dry and partly dry bulblets.

(c) *Garlicky triticale.* Triticale that contains in a 1,000 gram portion more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(d) *Infested triticale.* Triticale that is infested with live weevils or other insects injuriious to stored grain according to procedures prescribed in FGIS Instructions.

(e) *Light smutty triticale.* Triticale, that has an unmistakable odor of smut, or that contains in a 250 gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(f) *Smutty triticale.* Triticale that contains in a 250 gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

Subpart L—United States Standards for Wheat

Terms Defined

§ 810.2201 Definition of wheat.

Grain that, before the removal of dockage, consists of 50.0 percent or more common wheat (*Triticum aestivum* L.), club wheat (*T. compactum* Host.), and durum wheat (*T. durum* Desf.) and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act and that, after the removal of the dockage, contains 50.0 percent or more of whole kernels of one or more of these wheats.

§ 810.2202 Definition of other terms.

(a) *Classes.* There are seven classes for wheat: Durum Wheat, Hard Red Spring Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, White Wheat, Unclassed Wheat, and Mixed Wheat.

(1) *Durum Wheat.* All varieties of white (amber) durum wheat. This class is divided into the following three subclasses:

(i) *Hard Amber Durum Wheat.* Durum wheat with 75.0 percent or more of hard and vitreous kernels of amber color.

(ii) *Amber Durum Wheat.* Durum Wheat with 60.0 percent or more but less than 75 percent of hard and vitreous kernels of amber color.

(iii) *Durum Wheat.* Durum wheat with less than 60.0 percent of hard and vitreous kernels of amber color.

(2) *Hard Red Spring Wheat.* All varieties of hard red spring wheat. This class shall be divided into the following three subclasses:

(i) *Dark Northern Spring Wheat.* Hard red spring wheat with 75.0 percent or more of dark, hard, and vitreous kernels.

(ii) *Northern Spring Wheat.* Hard red spring wheat with 25.0 percent or more but less than 75.0 percent of dark, hard, and vitreous kernels.

(iii) *Red Spring Wheat.* Hard red spring wheat with less than 25.0 percent of dark, hard, and vitreous kernels.

(3) *Hard Red Winter.* Wheat. All varieties of hard red winter wheat. There are no subclasses in this class.

(4) *Soft Red Winter Wheat.* All varieties of soft red winter wheat. There are no subclasses in this class.

(5) *White Wheat.* All varieties of white wheat. This class is divided into the following four subclasses:

(i) *Hard White Wheat.* White wheat with 75.0 percent or more of hard kernels. It may contain not more than 10.0 percent of white club wheat.

(ii) *Soft White Wheat.* White wheat with less than 75.0 percent of hard kernels. It may contain not more than 10.0 percent of white club wheat.

(iii) *White Club Wheat.* White club wheat containing not more than 10.0 percent of other white wheat.

(iv) *Western White Wheat.* White wheat containing more than 10.0 percent of white club wheat and more than 10.0 percent of other white wheat.

(6) *Unclassed Wheat.* Any variety of wheat that is not classifiable under other criteria provided in the wheat standards. There are no subclasses in this class. This class includes:

(i) Red Durum wheat.

(ii) Any wheat which is other than red or white in color.

(7) *Mixed Wheat.* Any mixture of wheat that consists of less than 90.0 percent of one class and more then 10.0 percent of one other class, or a combination of classes that meet the definition of wheat.

(b) *Contrasting classes.* Contrasting classs are:

(1) Durum Wheat, White Wheat, and Unclassed Wheat in the classes Hard Red Spring Wheat and Hard Red Winter Wheat.

(2) Hard Red Spring Wheat, Hard Red Winter Wheat, Soft Red Winter Wheat, White Wheat, and Unclassed Wheat in the class Durum Wheat.

(3) Durum Wheat and Unclassed Wheat in the class Soft Red Winter Wheat.

(4) Hard Red Spring Wheat, Durum Wheat, Hard Red Winter Wheat, and Unclassed Wheat in the class White Wheat.

(c) *Damaged kernels.* Kernels, pieces of wheat kernels, and other grains that are: badly ground-damaged, badly weather-damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(d) *Defects.* Damaged kernels, foreign material, and shrunken and broken kernels. The sum of these three factors

may not exceed the limit for the factor Defects for each numerical grade.

(e) *Dockage.* All matter other than wheat that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS Instructions. Also, underdeveloped, shriveled, and small pieces of wheat kernels removed in properly separating the material other than wheat and that cannot be recovered by properly rescreening or recleaning.

(f) *Foreign material.* All matter other than wheat that remains in the sample after the removal of dockage and shrunken and broken kernels.

(g) *Heat-damaged kernels.* Kernels, pieces of wheat kernels, and other grains that are materially disclored and damaged by heat which remain in the sample after the removal of dockage and shrunken and broken kernels.

(h) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice rye, safflower, sorghum, soybeans, spelt, sunflower seed, sweet corn, triticale, and wild oats.

(i) *Shrunken and broken kernels.* All matter that passes through a 0.064 x ⅜ oblong-hole sieve after sieving according to procedures prescribed in the FGIS Instructions.

(j) *Sieve—0.064 x ⅜ oblong-hole sieve.* A metal sieve 0.032 inch thick with oblong perforations 0.064 inch by 0.375 (⅜) inch.

Principles Governing Application of Standards

§ 810.2203 Basis of determination.

Each determination of heat-damaged kernels, damaged kernels, foreign material, other classes, contrasting classes, and subclasses is made on the basis of the grain when free from dockage and shrunken and broken kernels. Other determinations not specifically provided for under the general provisions are made on the basis of the grain when free from dockage, except the determination of odor is made on either the basis of the grain as a whole or the grain when free from dockage.

Grades and Grade Requirements

§ 810.2204 Grades and grade requirements for wheat.

(a) Grades and grade requirements for all classes of wheat, except Mixed Wheat.

Grade	Minimum limits of—		Maximum limits of—						
	Test weight per bushel		Damaged kernels		Foreign material	Shrunken and broken kernels	Defects[3]	Wheat of other classes[4]	
	Hard Red Spring Wheat or White Club wheat[1]	All other classes and subclasses	Heat damaged kernels	Total[2]				Contrasting classes	Total[5]
	(pounds)	(pounds)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)
U.S. No. 1	58.0	60.0	0.2	2.0	0.5	3.0	3.0	1.0	3.0
U.S. No. 2	57.0	58.0	0.2	4.0	1.0	5.0	5.0	2.0	5.0
U.S. No. 3	55.0	56.0	0.5	7.0	2.0	8.0	8.0	3.0	10.0
U.S. No. 4	53.0	54.0	1.0	10.0	3.0	12.0	12.0	10.0	10.0
U.S. No. 5	50.0	51.0	3.0	15.0	5.0	20.0	10.0	10.0	10.0

U.S. Sample grade—U.S. Sample grade is wheat that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(b) Contains 8 or more stones that have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 2 or more castor beans (*Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 2 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of wheat; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor); or

(d) Is heating or otherwise of distinctly low quality.

[1] These requirements also apply when Hard Red Spring Wheat or White Club wheat predominate in a sample of mixed wheat.
[2] Includes heat-damaged kernels.
[3] Defects include damaged kernels (total), foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for defects for each numerical grade.
[4] Unclassed wheat of any grade may contain not more than 10.0 percent of wheat of other classes.
[5] Includes contrasting classes.

(b) *Grades and grade requirements for Mixed Wheat.* Mixed Wheat is graded according to the U.S. numerical and U.S. Sample grade requirements of the class of wheat that predominates in the mixture, except that the factor wheat of other classes is disregarded.

Special Grades and Special Grade Requirements

§ 810.2205 Special grades and special grade requirements.

(a) *Ergoty wheat.* Wheat that contains more than 0.30 percent of ergot.

(b) *Garlicky wheat.* Wheat that contains in a 1,000 grams portion more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(c) *Infested wheat.* Wheat that is infested with live weevils or other insects injurious to stored grain according to procedures prescribed in FGIS Instructions.

(d) *Light smutty wheat.* Wheat that has an unmistakable odor of smut, or which contains in a 250 gram portion, smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(e) *Smutty wheat.* Wheat that contains, in a 250 gram portion, smut ball, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

(f) *Treated wheat.* Wheat that has been scoured, limed, washed, sulfured, or treated in such a manner that the true quality is not reflected by either the numerical grades or the U.S. Sample grade designation alone.

Dated: September 16, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86-22297 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-EN-M

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 84-029P]

Meat Fat Shortening; Container Size Restriction

AGENCY: Food Safety and Inspection Service (FSIS) USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Federal meat inspection regulations by removing the restriction limiting the packaging of artificially

flavored meat fat shortening to which artificial color has been added to conventional, round, 3 pound, containers.

This revision would allow producers of artificially flavored and colored meat fat shortening to market their product in institutional and other size containers. It also would promote consistency with Food and Drug Administration regulations for vegetable shortenings, which do not call for a container size restriction.

DATE: Comments must be received on or before: December 1, 1986.

ADDRESS: Written comments to: Policy Office, ATTN: Linda Carey, FSIS Hearing Clerk, Room 3168, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Mr. C. R. Brewington, Chief, Labeling Policy and Approval Branch, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-5388.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined that the proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The proposal would provide meat fat shortening processors greater flexibility by permitting them to package their product in commercial as well as retail size containers. Since no similar container size restriction exists for vegetable shortening the proposal would allow meat fat shortening producers to compete on a fair and equitable basis with vegetable shortening producers.

Effects on Small Entities

Under the circumstances mentioned above, the Administrator, Food Safety and Inspection Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601).

Comments

Interested parties are invited to submit comments concerning this notice. Written comments should be sent in duplicate to the Regulations Office. The comments should reference Docket Number 84-029P. All comments submitted pursuant to the notice will be available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Under the Federal Meat Inspection Act, the Food Safety and Inspection Service is responsible for assuring that meat and meat food products are wholesome, not adulterated, and that labeling of these products is not false or misleading. In accordance with this statutory authority, the Agency has for some time maintained a maximum limit of 3 pounds for containers of artificially flavored meat fat shortening to which coloring has been added (9 CFR 318.7(c)(3)).

The container size restriction was added to the regulations in 1957 in response to comments concerning a proposal to change ingredient nomenclature for substances that may be added to meat products. The preamble of this regulation did not discuss the rationale for adding a container size restriction for artificially flavored and colored meat fat shortening. However, it is likely that the restriction was added to the regulations to assist in preventing consumers from mistaking artificially flavored and colored meat fat shortening for butter or margarine.

The Agency has been petitioned by Ed Miniat, Inc., of Chicago, Illinois to remove the container size restriction on artificially flavored meat shortening to which coloring has been added. The petitioner supplies meat fat shortening to the fast food restaurant industry and has been requested by a customer to supply artificially flavored and colored meat fat shortening in 50 pound containers. The petitioner contends that his firm operates at an unfair disadvantage to vegetable shortening producers, since no container size restriction exists in the Food and Drug Administration regulations for artificially flavored and colored vegetable shortening. The petitioner notes that packaging 3 pound units creates production costs not applicable to the production of vegetable shortening which may be packed in larger units.

The Agency believes that the container size restriction was probably more appropriate 30 years ago when hydrogenated shortenings were newer products. By requiring that the product be packaged in conventional, round, 3 pound containers, the Agency provided extra assurance that consumers were alerted to the fact that the product was not butter or margarine. Since the time that the restriction was added to the regulations, consumer awareness of hydrogenated shortenings has increased. In addition, meat fat shortenings are required by § 319.701 of the meat inspection regulations to be clearly labeled as "Shortening" (with an ingredient statement), "Shortening Prepared with Meat Fats and Vegetable Oils," or "Shortening Prepared with Vegetable Oils and Meat Fats," whichever is appropriate. Product labeled according to this regulation is unlikely to be deceptive to consumers.

Accordingly, since the container size restriction for flavored and colored meat fat shortening is probably out-dated, and since this restriction places meat fat shortening producers at a competitive disadvantage to vegetable fat shortening producers, the Administrator is proposing to delete the last sentence from § 318.7(c)(3) of the meat inspection regulations.

List of Subjects in 9 CFR Part 318

Meat inspection, Preparation of product, Approval of Substances.

PART 318—[AMENDED]

1. The authority citation for 9 CFR Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et. seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et. seq.*); 76 Stat. 663 (7 U.S.C. 450 *et. seq.*), unless otherwise noted.

§ 318.7 [Amended]

2. 9 CFR 318.7(c)(3), would be amended by removing the last sentence.

Done at Washington, DC, on September 29, 1986.

Donald L. Houston,

Administrator, and Inspection Service.

[FR Doc. 86-22295 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Classification of Orange Juice Concentrate-Based Product; Solicitation of Comments

AGENCY: Customs Service, Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments concerning the classification of orange juice concentrate-based product. Customs received a petition submitted on behalf of a domestic interested party with respect to a Customs ruling that an orange juice concentrate-based product consisting of orange juice concentrated to 65° Brix to which certain ingredients were added was classified under item 183.05, Tariff Schedules of the United States (TSUS), as other edible preparations, not specially provided for. The petitioner contends that the subject product should be classified under item 165.29, TSUS, as concentrated orange juice or orange juice made from concentrated orange juice. The petitioner argues that orange juice is now provided for *eo nomine* in the TSUS because of an amendment by the Trade and Tariff Act of 1984 (Pub. L. 98–573).

A previous solicitation for comments was published in the **Federal Register** on July 30, 1986 (51 FR 27196). Comments were to have been received on or before September 29, 1986. Customs has received several requests to extend the comment period because additional time is required to prepare reasonably responsive comments. Customs believes the requests have merit. Accordingly, the period of time for the submission of comments is being extended 60 days.

DATE: Comments are requested on or before November 28, 1986.

ADDRESS: Comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the address above.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Division, (202–566–8181).

Dated: September 26, 1986.

John P. Simpson,

Director, Office of Regulations & Rulings.

[FR Doc. 86–22315 Filed 10–1–86; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–750]

Health and Safety Standards; Manual Lifting

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Request for comments and information.

SUMMARY: The Occupational Safety and Health Administration (OSHA) seeks information which could potentially lead to the reduction of risk of back injury to the American workforce. OSHA solicits information and comments on issues raised in this Request for Comments and Information, and any other pertinent information that will aid in the development of mechanism or intervention strategies to reduce the level of back injuries occurring at the workplace.

DATES: All comments on this notice should be received by January 30, 1987.

ADDRESSES: All comments should be submitted in quadruplicate to the Docket Officer, Docket No. S–750, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3670, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 523–7894. Comments will be available for public inspection and copying at the above location.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue, NW. Washington, DC 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

Background

Manual materials handling is the principal source of compensable work injuries in the United States, and four out of five of these injuries affect the lower back. Bureau of Labor Statistics data for 1980 show that one million workers suffered back injuries, which accounted for one out of every five injuries and illnesses in the workplace. Almost one-fourth of worker's compensation indemnity expenditures were for claims involving back injuries. The plain and suffering endured by the exposed population and the several billions of dollars expended annually as a result of back injuries justify an effort to deal with this problem.

Methods for preventing lifting injuries can be grouped into two major categories, administrative controls and engineering controls. Administrative controls attempt to prevent injuries by carefully selecting and/or training workers so that they can safety perform lifting tasks. Engineering controls attempt to redesign the job so that the lifting task becomes less hazardous.

The purposes of employee selection programs has been to identify individuals who are predisposed to back injury and who should not be placed on strenuous jobs. These programs have often been incorported into the preemployement physical examination. Techniques such as lumbar-spine X-rays, medical history, and physical examination for postural abnormalities have been advocated as effective in identifying "high risk" job applicants.

However, a recent study performed by a large carrier of workers' compensation insurance found none of these approaches to be effective in reducing compensable back injuries. Furthermore, because of the hazards associated with exposure to radiation during spinal X-rays, the American Occupational Medical Association has taken a position that discourages using the procedure as a routine as a routine screening method.

Strength testing is a relatively new approach advocated as an employee selection method. Recent studies have shown that the method can be used to reduce injuries by discouraging the assignment of weaker workers to jobs that exceed their strength capacities. In one study, it was shown that job simulation strength tests can reduce up to one-third of the work related injuries.

Training programs have also been suggested as an administrative approach for preventing injuries during lifting. For many years organizations such as the National Safety Council have recommended that workers be taught to maintain a straight back, to bend their knees, and to use the muscles of their legs to generate the power required for lifting. However, recent studies have found no differences in the rate of back injuries in companies that utilize these training programs and companies without these programs.

The engineering approach to controlling lifting injuries is to design the requirements of the job to be within the capabilities of the workforce. Examples of engineering controls include reduction in the size or weight of the object lifted, changing the height of a pallet or shelf, or installing a mechanical lifting aid. In a recently published insurance company study, it was

determined that up to one-third of compensable back injuries could be prevented through better job design.

To date, no approach has been found for totally eliminating back injuries caused by lifting. However, it has been demonstrated that a substantial portion of lifting injuries can be prevented through the implementation of an effective control program involving both administrative and engineering controls. It is the elements of these effective control programs which OSHA intends to identify and evaluate in developing an overall strategy which will reduce the risk of back injury to the American workforce.

Parameters of a Lifting Task

Lifting is a complex activity that cannot be described with a single measurement.

Some of the major parameters that define a lifting task and that could be included in a program to establish safe lifting limits are listed below. OSHA solicits comments and data on ways in which each of these parameters may be incorporated into a proposed intervention strategy.

A. Parameters of the Object Lifted

1. *Weight.* The weight of an object is directly related to the stresses incurred while lifting. It is anticipated that any intervention strategy will specify a maximum allowable weight for a *given set of task parameters.*

2. *Size and Shape.* The size and shape of an object determines how closely it can be held to the body during a lift. In general, it is easier and safer to lift a compact object than a bulky object of equal weight. Should the approach consider the effects of size? If so, how should the maximum allowable weight be adjusted for objects of different size?

3. *Presence of Handles.* Objects with handles are easier to grip and are less likely to be dropped than objects without handles. Should the approach include a factor for adjusting the maximum allowable weight based on the presence or absence of handles? Should there be any criteria for size, strength, or configuration of hands for use on different size and shapes of objects to be lifted?

4. *Stability.* Objects of constant shape (e.g., a rigid box) may be easier to handle than objects whose shape may change (e.g. a bag of grain). Should the lifting approach include a factor for adjusting the maximum allowable weight based on an object's stability?

B. Parameters of the Workplace

1. *Vertical Location.* Workplace layout frequently determines the height at which an object is presented to a worker, and the height to which it must be lifted. Lifting which occurs below knee height or above shoulder height is more strenuous than lifting that occurs between these limits. Should the lifting approach include a factor which considers vertical location?

2. *Horizontal Obstruction.* Any item or structure which prevents a worker from placing his or her body in contact with the object increases the horizontal distance between the worker and the object. How should the lifting recommendations be adjusted for horizontal obstructions?

3. *Walking/Working surfaces.* Should a lifting program include special considerations for slippery and/or uneven working surfaces?

C. Parameters of the Job

1. *Frequency of Lifting.* Jobs that require high frequency lifting may result in fatigue that could lead to an accident. Should the maximum allowable weight be adjusted downward as lifting frequency increases?

2. *Duration of Lifting Activities.* In addition to frequency, the duration of a lifting activity may contribute to fatigue. Should the program approach establish more stringent criteria for jobs where lifting occurs continuously? Should different criteria be established for different shift lengths?

3. *Type of lift.* Should separate criteria be established for one-handed versus two-handed lifts? Should more restrictive criteria be established for lifts that require twisting?

Individual Variability

Lifting requires muscular strength and consumes muscular energy. An individual's lifting capacity is related to factors such as age, body size and weight, general state of health, training and experience, degree of muscular development, and general physical fitness. However, without specific measurements of physical fitness and strength, it is difficult to predict an individual's ability to perform a lifting task.

Physical fitness and strength vary considerably within the working population. To assure effectiveness, criteria developed to protect workers from the hazards associated with lifting must recognize the existence and extent of interworker variability.

Potential Approaches for Establishing Lifting Limits

Numerous approaches have been suggested for establishing limits that define safe lifting. In general, these approaches attempt to prevent damaging stresses to a worker's body by limiting the maximum weight that is allowed to be lifted. With most approaches, the maximum allowable weight is a variable, and must be determined for a given set of object, workplace, and job parameters.

Several approaches for establishing safe lifting criteria are presented below. Comments and information are requested regarding their suitability for use in an OSHA program.

A. NIOSH Work Practices Guide

The *NIOSH Work Practices Guide for Manual Lifting* is based on an equation that uses four variables (horizontal location of object at lift origin, vertical location of object at lift origin, vertical travel distance of the object, and lifting frequency) to compute an "Acceptable Lift (AL)" and a "Maximum Permissible Lift (MPL)." If the object weighs less than the computed AL, then the lifting task is considered to be non-hazardous. If the object weighs more than the computed MPL, then the lifting task is hazardous and should be redesigned. If the object weight falls between the computed AL and MPL values, the employer is encouraged to either redesign the job or implement administrative controls.

The NIOSH approach was developed from an extensive review of recent literature on the topic of lifting. It is an integrated approach that incorporates the principles of some of the approaches that are discussed below.

B. Maximum Acceptable Weight

A simple approach for defining safe lifting would be to set a maximum weight limit which could not be exceeded in a single lift. This approach has been proposed by the International Labor Organization and has been adopted as an "operating rule" by some organizations in the private sector. An attractive feature of this is its simplicity: a load can be designated as either "safe" or "unsafe" based on a single, unambiguous measurement. This approach has been criticized, however, becasue it does not recognize important factors such as object size, workplace geometry, and lift frequency.

In addition to setting the maximum acceptable weight for a single lift, an extended version of this approach could specify limits on the total weight that could be lifted over the duration of a work shift. The extended version implicitly considers the effects of lift frequency, and may prevent fatigue caused by excessive expenditure of muscular energy.

C. Maximum Load-Moment

The maximum acceptable weight approach can be modified to recognize effects of object size and workplace geometry. The modified approach is based on the variable "Load-Moment" that is computed using the following equation:

Load-Moment equals Object Weight times Separation Distance
Separation Distance equals Horizontal Distance Between the Worker's Body and the Load Center of Gravity

Using this approach, a maximum value of load-moment would be established that could not be exceeded on a single lift. An attractive feature of the load-moment approach is that the computed value is a reasonable approximation of stresses incurred by musculoskeletal tissues in the spine, and only two measurements are needed to classify a lift as either "safe" or "unsafe." This approach has been criticized, however, because it does not recognize factors such as vertical location of the object or lift frequency.

In addition to setting the maximum load-moment for a single lift, and extended version of this approach could establish limits on the cumulative load-moment that could be lifted over the duration of work shif. This extended version would implicitly consider the effects of frequency and fatigue.

D. Psychophysics

This approach is based on a series of laboratory experiments that have been conducted in order to measure the maximum weight that workers judge to be acceptable when their jobs require that they perform lifting activities during an eight hour work shift. These experiments have determined the effects of four task parameters (object size, vertical location of the object at lift origin, vertical travel distance of the object, and lift frequency) on maximum acceptable weight for a single lift. Tables have been developed which list maximum acceptable weights for different percentiles of the male and female working populations for a broad range of task parameters.

The psycophysical approach recognizes the variability of lifting capability within the population, and allows the difficulty of a lifting task to be expressed in terms of a population percentile. For example, one could measure the parameters of a lifting task, and use the tables to determined that the task is acceptable to 90 percent of the population. Such task would be easier and safer than another task acceptable to say only 10 percent of the population.

Using the psychophysical approach, lifting limits could be estimated by selecting a population percentile. For example, a strategy could be developed for all lifting tasks to be of a type deemed to be acceptable to 75 percent of the working population. Any task accetable to fewer people would need to be redesigned to reduce the risk of injury.

E. Biomechanics

This approach is based on the principle that musculoskeletal tissues will suffer injury if they are subjected to excessive stresses during lifting. Four task parameters (object weight, vertical location of the object at lift origin, horizontal location of the object at lift origin, and obstructions in the workplace) must be measured in order to use the biomechanical approach. These measurements are them processed by a computer program that calculates stresses at the lower back and other key joints. If these stresses exceed established safe limits, there is an increased risk of injury associated with the lifting task.

A lifting strategy based on the biomechanical approach would necessitate the specification of standard procedures for measuring task parameters and computing the resultant stresses, and the specification of maximum stress levels that could not be exceeded. Any task found to exceed these levels would have to be redesignated to reduce the risk of injury.

The biomechanical approach does not utilize either frequency or job duration as parameters needed to describe a lifting task.

F. Work physiology

This approach is based on the principle that muscular energy is expended every time that a lifting task is performed. If the level of energy expenditure is excessive, then continued performance of the task can lead to fatigue and increased risk of injury. In order to use the physiological approach it is necessary to measure six task parameters (object weight, vertical location of the object at task origin, horizontal location of the object at task origin, vertical travel distance of the object, task frequency, and job duration). This information is used in conjunction with tables, graphs, and/or equations in order to predict the rate of energy expediture, the total energy expenditure, and the total energy consumption associated with a lifting job.

A lifting strategy based on the physiological approach would require the specification of standardized procedures for estimating energy expenditure, and a maximum allowable energy expenditure rate. Any task that requires the expenditure of energy in excess of this rate would have to be redesigned to reduce the risk of injury.

G. Other Considerations

Regardless of the approach or combination of approaches selected as a basis for a lifting strategy, it must be recognized that hazards associated with regular, repetitive lifting tasks (such as those performed on a production line or in a shipping department) are usually easier to control than hazards associated with irregular, infrequent lifting tasks. For example, hazardous lifting that occurs on an assembly line can oftern be controlled using engineering approaches such as reducing the size and weight of objects that are lifted, designing the workplace to eliminate stressful or hazardous lifting postures, and installing automated materials handling equipment. Unfortunately, in many cases it is either impossible or infeasible to implement engineering controls for lifting tasks that occur infrequently or at an uncertain location. Whatever strategy may be adopted, provision should be made for special situations where administrative controls (e.g. "team" lifting, employee training, employee selection) are the only practical means for protecting the workers.

OSHA believes that any mechanism developed for manual lifting must be both easily applied and cost effective. The feasibility and utility of the various approaches must be evaluated and demonstrated prior to selection of the best approach for implementation. Comments regarding injury data, material handling methods, training and selection techniques, safety benefits, and costs of compliance associated with the aforementioned approaches applicable to the implementation of a lifting program are requested.

Public Participation

Interested persons are invited to submit written data, views and information with respect to the issues raised in this Request for Comments and Information. Written comments must be submitted by January 30, 1987, in quadruplicate, to the Docket Officer, Docket No. S–570, Room N–3670, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Written submissions must clearly identify the issues and areas which are addresses and the position taken with respect to each issue and area.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 26th day of September 1986.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 86-22238 Filed 10-1-86; 8:45 am]

BILLING CODE 4510-26-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 86-5]

Recordation of Transfers and Other Documents

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed Regulations.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is considering the deletion of the requirement in its regulations (37 CFR 201.4(a)) that, to be recordable, a reproduction of a signed document must be accompanied by a sworn certification signed by at least one of the persons who executed the document, or by an authorized representative of that person. These regulations implement section 205 of the Copyright Act, title 17 U.S.C., and govern the formal requirements such as the signatures, completeness, and legibility of documents that must be satisfied in order to record a document pertaining to a copyright.

DATE: All comments should be received on or before November 3, 1986.

ADDRESSES: Interested persons should submit ten copies of their written comments to: Office of the General Counsel, Copyright Office, Library of Congress, Department 100, Washington, DC 20540, or if by hand, to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Ave., SE., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559, Telephone (202) 287-8380.

SUPPLEMENTARY INFORMATION: Section 205(a) of title 17 U.S.C. provides that: "Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document." The legislative history of this provision also stipulates that any "document pertaining to a copyright" may be recorded if it "bears the actual signature of the person who executed it," or "if it is appropriately certified as a true copy." H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. 128 (1976).

In implementing section 205, the Copyright Office adopted final regulations on the recordation of transfers and certain other documents. The regulations were published in the **Federal Register** on August 8, 1978 (43 FR 35044). Under § 201.4(c)(1) of the regulations, the Copyright Office permitted the recordation of a legible photocopy or other fullsize facsimile reproduction of a signed document pertaining to a copyright, provided that the reproduction of the document was accompanied by a sworn certification or an official certification that the reproduction is true copy of the signed document, and provided further that, "[a]ny sworn certification accompanying a reproduction *shall be signed by at least one of the persons who executed the document,* or by an authorized representative of that person." (Emphasis added.)

The Association of American Publishers has requested a review of the Copyright Office regulations on the recordation of documents. Specifically, the Association has requested the Office to amend its regulations on certification of documents for recordation "to permit certifications signed by publishers, or their representatives, to accompany reproductions of documents retained in the regular course of publishing business." Letter of April 18, 1983 to Register of Copyrights from Association of American Publishers, Inc. They pointed out that the requirement in § 201.4(c)(1) that a sworn certification accompanying a reproduction of a transfer document be signed by one of the *persons* who executed the document (or an authorized agent) imposed a substantial burden on publishers, and, in particular, journal publishers, who maintain their records of transfer documents in microform. Since transfer documents are often signed *only* by the transferor, (generally the author), when a publisher wants to record a reproduction of a document of transfer, often years after the transaction occurred, the publisher must try to locate the transferor, or an authorized representative of that person, to sign the required sworn certification. Where only a microform reproduction of a document is maintained (and it is our understanding that this is common practice in the journal publishing industry), a publisher is deterred and, in some cases, precluded from recording such reproductions in the Copyright Office.

To alleviate the difficulties experienced by journal publishers in complying with the recordation requirements in § 201.4 of 37 CFR, the Copyright Office proposes to amend its regulations to permit the required sworn certification to be signed by a *party* to a document of transfer, regardless of whether that person actually signed the document. For example, where an author transfers the copyright in an article to a periodical publisher, and the publisher does not sign the document of transfer, a reproduction of this document may be submitted for recordation, provided it is accompanied by a sworn certification signed by either the author or the publisher, or an authorized representative of either. The Copyright Office will continue to require that the person or persons submitting a reproduction of a transfer document for recordation certify that the reproduction is "a true copy of the signed document."

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress, which is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7.) The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined that this proposed regulation will have no significant impact on small businesses.

List of Subjects in 37 CFR Part 201

Copyright.

Proposed Regulations

PART 201—[AMENDED]

In consideration of the foregoing, the Copyright Office proposes to amend Part 201 of 37 CFR, Chapter II.

1. The authority citation for Part 201 would continue to read as follows:

Authority: Copyright Act, Pub. L. 94–553; 90 Stat. 2541 [17 U.S.C. 702].

2. Section 201.4(c)(1) would be revised to read as follows. Paragraph (c) introductory text is republished.

§ 201.4 Recordation of transfers and certain other documents.

* * * * *

(c) *Recordable documents.* Any transfer of copyright ownership (including any instrument of conveyance, or note or memorandum of the transfer), or any other document pertaining to a copyright, may be recorded in the Copyright Office if it is accompanied by the fee set forth in paragraph (d) of this section, and if the requirements of this paragraph with respect to signatures, completeness, and legibility are met.

(1) To be recordable, the document must bear the actual signature or signatures of the person or persons who executed it. Altenatively, the document may be recorded if it is a legible photocopy or other full-size facsimile reproduction of the signed document, accompanied by a sworn certification or an official certification that the reproduction is a true copy of the signed document. Any sworn certification accompanying a reproduction shall be signed by at least one of the parties to the signed document, or by an authorized representative of that person.

* * * * *

Ralph Oman,

Register of Copyrights.

Approved:

William J. Welsh,

Acting Librarian of Congress.

[FR Doc. 86–22291 Filed 10–1–86; 8:45 am]

BILLING CODE 1410–03–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–56

Salary Offset for Indebtedness of General Services Administration Employees to the United States

AGENCY: Office of the Comptroller, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes regulations to implement the Debt Collection Act of 1982. The proposed regulations establish rules and procedures for the General Services Administration to collect, compromise or terminate collection action on claims owed to the U.S. from activities arising under GSA jurisdiction. In particular, procedures are set forth by which GSA can collect debts owed by Federal employees through the use of administrative offset from the employee's disposable pay.

DATE: All comments must be in writing and received on or before November 3, 1986.

ADDRESS: David C. Fisher, Jr., Chief Counsel, General Services Administration, 18th & F Streets, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Jr., Office of General Counsel, (LG), 202–566–1460.

Background

Until amended in 1982 by the Debt Collection Act, 5 U.S.C. 5514 was the authority for heads of agencies to offset an erroneous overpayment of pay from the disposable pay of Federal employees. The Debt Collection Act of 1982, Pub. L. 97–365, expanded Federal agency authority to offset debts owed to the United States. The intention of Congress in passing these amendments was to minimize the cost to the Government of recovery of the debts. In addition, the amendments imposed more stringent procedural requirements to protect the interests of Federal employees who have been determined to be indebted to the U.S. The proposed regulations are based on guidelines and standards published by the Office of Personnel Management, 49 FR 27470, July 3, 1984.

Paperwork Reduction Act of 1980

Under section 3518 of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information collection provisions contained in these regulations are not subject to the Office of Management and Budget review and approval.

Executive Order 12291

These proposed regulations have been reviewed in accordance with E.O. 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

For the reasons set out in the preamble, Title 41 of the Code of Federal Regulations is proposed to be amended as follows:

Part 105–56 is added to read as follows:

PART 105–56—SALARY OFFSET FOR INDEBTEDNESS OF GENERAL SERVICES ADMINISTRATION EMPLOYEES TO THE UNITED STATES

Sec.

105–56.001 Scope.
105–56.002 Excluded debts or claims.
105–56.003 Definitions.
105–56.004 Pre-offset notice.
105–56.005 Employee response.
105–56.006 Petition for pre-offset hearing.
105–56.007 Pre-offset oral hearing.
105–56.008 Non-oral pre-offset hearing.
105–56.009 Written decision.
105–56.010 Deductions.
105–56.011 Non-waiver or rights.
105–56.012 Refunds.
105–56.013 Coordinating offset with another Federal agency.

Authority: 5 U.S.C. 5514: Pub. L. 97–365, 96 Stat. 1754.

§ 105–56.001 Scope.

(a) This part covers both internal and Goverment-wide collections under 5 U.S.C. 5514. It applies when certain debts to the U.S. are recovered by administrative offset from the disposable pay of an employee of the U.S. Government, except in situations where the employee consents to the recovery.

(b) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 *et seq.*) or in accordance with any other statutory authority for the collection of claims of the U.S. or any Federal agency.

§ 105–56.002 Excluded debts or claims.

This part does not apply to:

(a) Debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (41 U.S.C. 301 *et seq.*), or the tariff laws of the United States.

(b) To any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute. For example, travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108.

(c) An employee election of coverage or of a change of coverage under a Federal benefits program which requires periodic deductions from pay if the amount to be recovered was accumulated over thirteen pay periods or less.

§ 105–56.003 Definitions.

The following definitions apply to this part:

"Administrator" means the Administrator of the General Services or the Administrator's designee.

"Debt" means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures and all other similar sources.

"Disposable pay" means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for life and health insurance benefits; and such other deductions that are required by law to be withheld."

"Employee" means a current employee of the General Services Administration, or other executive agency.

"FCCS" means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR 101.1 *et seq.*

"Pay" means basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay.

"Program official" means a supervisor or management official of the employee's service or staff office.

"Salary offset" means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

"Waiver" means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774 or 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

§ 105–56.004 Pre-Offset notice.

The employee is entitled to written notice from an appropriate program officer in his or her employing activity at least 30 days in advance of initiating a deduction from disposable pay informing him or her of:

(a) The nature, origin and amount of the indebtedness determined by the General Services Administration or another agency to be due;

(b) The intention of the agency to initiate proceedings to collect the debt through deductions from the employee's current disposable pay;

(c) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(d) An explanation of GSA's policy concerning how interest is charged and penalties and administrative costs assessed, including a statement that such assessments must be made unless excused under 31 U.S.C. 3717 and the FCCS, 4 CFR 101.1 et seq.;

(e) If Government records of the debt are not attached, the employee's right to inspect and copy Government records relating to the debt, or if the employee or his or her representative cannot personally inspect the records, the right to receive a copy of such records. Any costs associated therewith shall be borne by the debtor. The debtor shall give reasonable notice in advance to GSA of the date on which he or she intends to inspect and copy the records involved;

(f) A demand for repayment providing for an opportunity, under terms agreeable to GSA, for the employee to establish a schedule for the voluntary repayment of the debt by offset or to enter into a written repayment agreement of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the appropriate program official of his or her employing activity and a copy of the agreement must be sent to the regional finance division serving the program activity. The acceptance of such an agreement is discretionary with the agency.

(g) Where a waiver of repayment is authorized by law, the employee's right to request a waiver from the General Accounting Office.

(h) The employee's right to pre-offset hearing conducted by a hearing official arranged by the appropriate program official of his or her employing activity if a petition is filed as prescribed by § 105–56.005. Such hearing official will be either an administrative law judge or a hearing official not under the control of the head of the agency and will be designated in accordance with the procedures established in 5 CFR 550.1107.

(i) The method and time period for petitioning for a hearing, including a statement that the timely filing of a petition for hearing will stay the commencement of collection proceedings.

(j) That a final decision on the hearing, if requested, will be issued at the earliest practicable date, but no later than 60 days after the petition is filed unless a delay is requested and granted.

(k) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal Penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority.

(l) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made.

(m) Where amounts paid or deducted are later waived or found not owed, unless otherwise provided by law, they will be promptly refunded to the employee.

(n) The specific address to which all correspondence shall be directed regarding the debt.

§ 105–56.005 Employee response.

(a) *Voluntary repayment agreement.* An employee may submit a request to the official who signed the demand letter to enter into a written repayment agreement of the debt in lieu of offset. The request must be made within 7 days of receipt of notice under § 105–56.004. The agreement must be in writing, signed by both the employee and the program official making the demand and a signed copy must be sent to the regional finance division serving the program activity. Acceptance of such an agreement is discretionary with the agency. An employee who enters into such an agreement may nevertheless seek a waiver under paragraph (b) of this section.

(b) *Waiver.* Where a waiver of repayment is authorized by law, the employee may request a waiver from the General Accounting Office.

(c) *Reconsideration.* (1) An employee may seek a reconsideration of the Agency's determination regarding the existence or amount of the debt. The request must be submitted to the official who signed the demand letter within 7 days of receipt of notice under § 105–56.004. The request shall include a detailed statement of reasons for reconsideration and must be accompanied by supporting documentation.

(2) An employee may request a reconsideration of the proposed offset schedule. The request must be submitted to the program official who signed the demand letter within 7 days of receipt of notice under § 105–57.004. The request shall include an alternative repayment schedule proposed by the employee and a detailed statement supported by documentation evidencing financial hardship resulting from the agency's proposed schedule. Acceptance of the

request is discretionary with the agency. The agency must notify the employee in writing of its decision concerning the request to reduce the rate of an involuntary deduction.

§ 105–56.006 Petition for pre-offset hearing.

(a) The employee may petition for a pre-offset hearing by filing a written petition with the program official who signed the demand letter within 15 days of receipt of the written notice. The petition must state why the employee believes the agency's determination concerning the existence or amount of the debt is in error, and set forth objections to the involuntary repayment schedule only if the employee previously filed a request for reconsideration of the proposed schedule under § 105–56.005(c)(2). The timely filing of a petition will suspend the commencement of collection proceedings.

(b) The employee's petition or statement must be signed by the employee and fully identify and explain with reasonable specificity all the facts, evidence and witnesses which the employee believes support his or her position.

(c) Petitions for hearing made after the expiration of the 15 day period may be accepted if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit.

(d) If the employee timely requests a pre-offset hearing or the timeliness is waived, the program official must:

(1) Notify the employee whether the employee may elect an oral hearing; the program official will arrange for a hearing official; and

(2) The program official will provide the hearing official with a copy of all records on which the determination of the debt and any involuntary repayment schedule are based.

(e) An employee who elects an oral hearing must notify the hearing official and the program official in writing within 5 days of receipt of the notice under paragraph (d)(1) of this section and must identify all proposed witnesses and all facts and evidence about which they will testify.

(f) The hearing official notifies the program official and the employee of the date, time and location of the hearing.

(g) If the employee later elects to have the hearing based only on the written submissions, notification must be given to the hearing official and the program official at least 3 calendar days before the date of the oral hearing. The hearing official may waive the 3-day requirement for good cause.

(h) Failure of the employee to appear at the oral hearing will result in dismissal of the petition and affirmation of the agency's decision.

§ 105–56.007 Pre-offset oral hearing.

(a) Oral hearings are informal in nature. The agency, represented by a program official or a representative of the Office of General Counsel, and the employee, or his or her representative, explain their case in the form of an oral presentation with reference to the documentation submitted. The employee may testify on his or her own behalf, subject to cross examination. Other witnesses may be called to testify where the hearing official determines the testimony to be relevant and not redundant.

(b) The hearing official shall—

(1) Conduct a fair and impartial hearing; and

(2) Preside over the course of the hearing, maintain decorum, and avoid delay in the disposition of the hearing.

(c) The employee may represent himself or herself or may be represented by another person at the hearing. The employee may not be represented by a person who creates an actual or apparent conflict of interest.

(d) Oral hearings are open to the public. However, the hearing official may close all or any portion of the hearing when doing so is in the best interests of the employee or the public.

(e) Oral hearings may be conducted by conference call at the request of the employee or at the discretion of the hearing official.

§ 105–56.008 Non-oral pre-offset hearings.

If a hearing is to be held only upon the written submission, the hearing official reviews the record and responses submitted by both the agency and the employee.

§ 105–56.009 Written decision.

(a) Within 60 days of filing of the employee's petition for a pre-offset hearing, the hearing official will issue a written decision setting forth: the facts supporting the nature and origin of the debt; the hearing official's analysis, findings and conclusions as to the employee's or agency's grounds, the amount and validity of the debt and the repayment schedule.

§ 105–56.010 Deductions.

(a) *When deductions may begin.* If the employee filed a petition for hearing with the program official before the expiration of the period provided for in § 105–56.006, then deductions will begin after the hearing official has provided the employee with a hearing, and the final written decision is in favor of the agency. It is the responsibility of the employee's program official to issue the pre-offset notice to the employee and to instruct the National Payroll Center to begin offset per a final written decision.

(b) *Retired or separated employees.* If the employee retires, resigns, or is terminated before collection of the amount of the indebtedness is completed, the remaining indebtedness will be offset from any subsequent payments of any nature. If the debt cannot be liquidated from subsequent payments, then the debt must be collected according to the procedures for administrative offset pursuant to 31 U.S.C. 3716.

(c) *Types of collection.* A debt will be collected in one lump sum or in installments. Collection will be by lump sum unless the employee is financially unable to pay in one lump-sum. In these cases, collection will be by installment deductions.

(d) *Methods of collection.* If the debt cannot be collected in one lump sum, the debt will be collected by deductions at officially established pay intervals from an employee's current pay account, unless the employee and the program official agree to an alternative repayment schedule. The alternative arrangement must be in writing and signed by both the employee and the program official.

(1) *Installment deductions.* Installment deductions will be made over the shortest period possible. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. The installment payment will be sufficient in size and frequency to liquidate the debt over the shortest period possible and never to exceed three years. Installment payments of less than $100 per pay period will be accepted only in the most unusual circumstances.

(2) *Sources of deductions.* GSA will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of a employee not entitled to basic pay, other authorized pay.

(e) Interest, penalties and administrative costs on debts under this part will be assessed according to the provisions of 4 CFR 102.13.

§ 105-56.011 Non-waiver of rights.

An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutory or contractual provisions to the contrary.

§ 105-56.012 Refunds.

GSA will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) GSA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

§ 105-56.013 Coordinating offset with another Federal agency.

(a) *When GSA is owed the debt.* When GSA is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until GSA provides the agency with a written certification that the debtor owes GSA a debt and that GSA has complied with these regulations. This certification shall include the amount and basis of the debt and the due date of the payment.

(b) *When another agency is owed the debt.* GSA may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Any such request must be accompanied by a certification from the requesting agency that the person owes the debt, the amount of the debt and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR Part 550, Subpart K.

Dated: July 23, 1986.

Nancy Potter,

Acting Comptroller, General Services Administration.

[FR Doc. 86-22254 Filed 10-1-86; 8:45 am]

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DEPARTMENT OF THE INTERIOR

43 CFR Part 4

Special Rules Applicable to Surface Coal Mining Hearings and Appeals

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Hearings and Appeals proposes procedures for adjudicatory proceedings for the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977. The proposed rules set forth who may request a hearing, where and when to file pleadings, what the contents of the pleadings must be, who bears the burden of proof, and similar matters involved in administrative proceedings to review decisions of the Office of Surface Mining Reclamation and Enforcement (OSM). These proposed rules would supplement those already contained in 43 CFR Part 4, Subpart L, governing hearings and appeals under the Surface Mining Act.

DATE: Comments are due on or before November 3, 1986.

FOR FURTHER INFORMATION CONTACT: Will A. Irwin, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, phone 703-235-3750.

ADDRESS: Comments may be hand delivered or mailed to: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

SUPPLEMENTARY INFORMATION:

Introduction

On April 9, 1986, the Office of Hearings and Appeals published proposed rules setting forth procedures for hearings and appeals of decisions made by the Office of Surface Mining Reclamation and Enforcement under the permanent regulatory program established by the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq. See* 51 FR 12168-12175. (The proposed rules were revisions of rules originally proposed on January 14, 1981. *See* 46 FR 3242.) Comments were received from Arch Mineral Corporation, Facts About Coal in Tennessee, the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations, Kiewit Mining Group Inc., the Mining and Reclamation Council of America, the National Wildlife Federation and the Environmental Policy Institute, and employees of the Department of the Interior's Office of Surface Mining Reclamation and Enforcement and Office of Hearings and Appeals.

Several changes to the proposed procedures were decided upon as a result of these comments. Therefore, the rules are re-proposed for public comment. Responses to the comments submitted about the April 9, 1986, proposed rules as well as further explanation of these proposed rules are provided in this supplementary information discussion, as needed.

In general, these rules provide procedures for review of OSM decisions that implement a Federal program (*see* 30 U.S.C. 1254 and 30 CFR Parts 733 and 736), a Federal lands program (*see* 30 U.S.C. 1273 and 30 CFR Parts 740 and 745), or a Federal program for Indian lands (*see* 30 CFR Chapter VII, Subchapter E). The Surface Mining Act provides for hearings to review various decisions made by OSM (*see, e.g.*, 30 U.S.C. 1264), and OSM's program rules refer to administrative review under 43 CFR Part 4 for other decisions (*see, e.g.*, 30 CFR 775.11). The following discussion is organized by kind of decision made by OSM.

Review of a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations

Section 510(c) of the Act, 30 U.S.C. 1260(c), provides that "no permit shall be issued to an applicant after a finding by the regulatory authority, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining oerations with a demonstrated pattern of willful violations of this Act of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this Act." 30 CFR 773.15(b)(3) and 740.13(c)(7) provide for an adjudicatory hearing before a final determination or finding that there is such a demonstrated pattern of willful violations. Proposed rules 43 CFR 4.1350-4.1356 implement these provisions.

A comment objected to the phrase at the end of 43 CFR 4.1350, as proposed on April 9, 1986, "other applicable Federal or State laws or regulations or individual permit conditions," on the grounds that it goes beyond the language of section 510(c). The regulation has been revised to substitute "or the applicable State or Federal program." *Cf.* 30 U.S.C. 1260(b)(1)-(2). The corresponding language in 43 CFR 4.1355(a) has been changed in the same manner.

A comment suggested that 43 CFR 4.1351 provide that OSM's notice of a preliminary finding of a demonstrated pattern of willful violations set forth specifically the basis for the finding, *i.e.*, what violations demonstrate a pattern. The regulation has been revised to include this requirement. Another comment suggested that OSM's issuance of a notice of a preliminary finding should not suspend or postpone its

review of the permit application in other aspects. It is not the intent of these rules that a notice would have this effect, although whether it should is a matter for OSM to decide.

A comment suggested removing the time limit in 43 CFR 4.1352(b) for filing a request for a hearing and deleting the sanction in 43 CFR 4.1352(c) for failure to file a request timely. The suggestion is not accepted. Prmpt resolution of whether the permit must be denied is important to both the Department and the applicant.

A comment was made that the ultimate burden of persuasion is 43 CFR 4.1355(b) should be on OSM because the applicant has already discharged this burden before OSM during the permit application review process and because the applicant would otherwise be placed in the position of proving there was no pattern of willful violations. The comment cannot be accepted. A preliminary finding occurs during the permit application review process, and the applicant has the burden of establishing that his application is in compliance with all the requirements of the applicable State or Federal program. 30 U.S.C. 1260(a). If the notice of the preliminary finding and OSM's evidence at the hearing do not establish a prima facie case, as required by 43 CFR 4.1355(a), or the person requesting the hearing overcomes the prima facie case, the ultimate burden of persuasion is carried. This is the standard allocation of burdens of proof, and conforms to due process and the Administrative Procedure Act. *EDF* v. *EPA*, 548 F.2d 998, 1012–15 (D.C. Cir. 1976); *Old Ben Coal Corp.* v. *Interior Board of Mine Operations Appeals*, 523 F.2d 25, 34–42 (7th Cir. 1975); *Harry Smith Construction Co.* v. *OSM*, 78 IBLA 27, 29–32 (1983).

Review of Approval or Disapproval of Applications for New Permits

Section 514(c) of the Act, 30 U.S.C. 1264(c), provides that a hearing may be requested on the reasons for a final determination on a permit application. Section 514(d), 30 U.S.C. 1264(d), provides for temporary relief pending final determination in such a proceeding. Proposed rules 43 CFR 4.1360–4.1369 implement these provisions.

43 CFR 4.1360 is revised from the April 9, 1986, version to clarify that the procedures in 4.1361–4.1369 apply to review of decisions on applications for new permits only, including decisions by OSM on applications for new permits to mine on Federal lands in states with cooperative agreements where both the state and OSM issue Federal lands permits (*e.g.*, Montana and Wyoming). (*See also* 30 CFR 774.13(d).) These rules also apply to review of permit terms and conditions imposed or not imposed by OSM, *i.e.*, terms and conditions included to which the applicant or a person with an interest which is or may be adversely affected objects on the grounds they are not required or terms and conditions omitted that the applicant or person believes are required. Reivew of decisions on applications for permit revisions and renewals, including terms and conditions imposed or not imposed, and for the transfer, assignment, or sale of rights under a permit is conducted under 4.1370–4.1378.

A comment suggesting that a person must have participated through public comment in order to be able to file a request for review under 43 CFR 4.1361 (as well as 4.1371, 4.1381, and 4.1391) was not accepted. *See* H.R. 218, 95th Cong., 1st Sess. at 90; H.R. 337, 95th Cong., 1st Sess. at 106–07.

A comment objected that the times for filing a request for review in 43 CFR 4.1362(a) and (b) as proposed on April 9, 1986, were inconsistent with 30 U.S.C. 1264(c) and 30 CFR 775.11(a). The rule is revised to allow thirty days "after the applicant is notified" of OSM's decision. Corresponding changes have been made to proposed 43 CFR 4.1372, 4.1382, and 4.1391.

A comment suggested adding a requirement that the applicnt be served with a copy of a request for review filed by any person having an interest which is or may be adversely affected. Because a request for review is a "document by which [a] proceeding in initiated" it must be served on the applicant in accordance with 43 CFR 4.1109(b) because the applicant is a statutory party under 43 CFR 4.1105. An initiating document must also be served on the Field Solicitor or Regional Solicitor, Division of Surface Mining, who represents OSM in the state in which the surface mining operation is located. 43 CFR 4.1109(a). These service requirements also apply to requests for review filed under proposed 43 CFR 4.1352, 4.1371, 4.1381, and 4.1391. The current addresses of Field and Regional Solicitors and the states for which they are responsible for Surface Mining Act cases are:

For cases arising in Arizona, Arkansas, California, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, Nevada, New Mexico, Oklahoma, Texas, Utah: Office of the Regional Solicitor, U.S. Department of the Interior, P.O. Box 3156, Tulsa, Oklahoma 74101. Phone 918–581–7502.

For cases arising in Connecticut, Delaware, Ilinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia: Office of the Field Solicitor, U.S. Department of the Interior, Suite 502], U.S. Post Office and Courthouse, Pittsburgh, Pennsylvania 15219. Phone 412–644–4455.

For cases arising in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia: Office of the Field Solicitor, U.S. Department of the Interior, P.O. Box 15006, Knoxville, Tennessee 37901. Phone 615–673–4233.

For cases arising in Alaska, Hawaii, Idaho, Oregon, Montana, Minnesota, North Dakota, South Dakota, Washington, Wisconsin, and Wyoming: Office of the Regional Solicitor, U.S. Department of the Interior, Denver Federal Center, P.O. Box 25007, Denver, Colorado 80225. Phone 303–236–8444.

Any party or other person shall serve any other documents being filed subsequently with OHA on all other parties and all other persons participating in the proceeding.

A comment suggested that the requirements of 30 U.S.C. 1264(c) that a hearing be held within thirty days of the filing of a request for review and that a written decision be issued within thirty days after the hearing should be able to be waived because administrative review of many technical issues cannot realistically be conducted within these time limits and because the parties should be allowed time to resolve their differences by settlement. 43 CFR 4.1364(b) has been revised to authorize an administrative law judge to allow more time to convene a hearing and to authorize the administrative law judge or the Board to allow more than thirty days to issue a written decision upon motion signed by all parties. 43 CFR 4.1368 and 4.1369 have revised accordingly.

Commenters objected that the suspension of a permit upon filing of a request for review, as proposed in the April 9, 1986, version of 43 CFR 4.1365, was inconsistent with the first sentence of section 514(c), 30 U.S.C. 1264(c). It was noted, further, that an automatic suspension of a permit is inappropriate considering the extensive permit approval criteria of OSM and the opportunity afforded during the OSM review process for those objecting to the issuance of the permit to register their objections. Interested persons adversely affected by the issuance of the permit may seek temporary relief pursuant to section 514(d), 30 U.S.C. 1264(d). The

rule has been revised to remove the suspension.

A comment suggested that OSM should bear the ultimate burden of persuasion under 43 CFR 4.1366(a) because for OSM to challenge the permit after having approved it and thereby replace the burden on the applicant would be inequitable. Although it seems unlikely that OSM would do this, if it did, 43 CFR 4.1366(b) would allocate the ultimate burden of persuation to OSM. Where the applicant challenges OSM's decision, 43 CFR 4.1366(a) properly allocates the ultimate burden of persuasion to the applicant. 30 U.S.C. 1260(a).

Because the suspension of a permit upon filing of a request for review has been deleted from 43 CFR 4.1365, the provisions relating to it in 43 CFR 4.1367 (4.1367(c)(5), 4.1367(e)(4)) are unnecessary and have also been deleted. The remaining provisions are retained to implement 30 U.S.C. 1264(d).

Becasue a hearing will have been held and a written decision issued by an administrative law judge on all material issues of fact, law, and discretion raised as a result of the filing of a request for review, the Board of Land Appeals will have discretion whether to accept appeals from these decisions similar to that provided in 43 CFR 4.1270. 43 CFR 4.1369 has been revised to authorize the Board to deny petitions for discretionary review that are clearly without merit. If a petition is denied the administrative law judge's initial decision will be final for the Department, subject to 43 CFR 4.5; if the petition is granted the rules in 43 CFR 4.1273–4.1276 are applicable. For the same reason, corresponding changes have been made in 4.1378 and 4.1387 (now 4.1388).

Review of OSM Decisions on Permit Revisions, Permit Renewals, and the Transfer, Assignment or Sale of Rights Granted Under a Permit

Sections 506(d), 510, and 511 of the Act, 30 U.S.C. 1256(d), 1260, and 1261, respectively, and 30 CFR 774.11(c), 774.15(f), and 775.11(a) provide for administrative review of OSM decisions on permit revisions, permit renewals, and the transfer, assignment, or sale of rights granted under a permit. Proposed rules 43 CFR 4.1370–4.1378 implement these provisions.

A comment suggested clarification that terms and conditions imposed or not imposed as a result of revision or renewal of permits would be reviewed under these procedures rather than 4.1360–4.1369. 4.1360–4.1369 are intended to govern the review of initial (new) permits only.

Another comment questioned why a hearing should be provided for renewal of permits when the Act (*see* 30 U.S.C. 1256(d)) and regulations (*see* 30 CFR 774.15(a)) provide that a valid permit carries with it a right of successive renewal within the approved boundaries of the existing permit. Approval of renewal applications is subject to 30 CFR 774.15(c), however, and 30 CFR 774.15(f) provides that any person having an interest which is or may be adversely affected by the decision of the regulatory authority shall have the right to administrative review.

It was also questioned why a hearing is provided for the transfer, assignment, or sale of rights when none is provided by 30 U.S.C. 1261(b). As indicated above, the answer may be found in 30 CFR 775.11(a).

A comment suggested due process requires that 43 CFR 4.1375 should provide that the filing of a request for review would stay an OSM order requiring revision of a permit because it is an "ex parte action by OSM." As indicated in the April 9, 1986, preamble, because the purpose of such an order is to ensure compliance with the Act (*see* 30 CFR 774.11(b)), no stay is appropriate, just as it is not under 30 U.S.C. 1275(a)(1) when an application for review is filed for a notice of violation or cessation order (unless temporary relief is granted). *Cf.* 43 CFR 4.1116. Because of the enforcement nature of such an order, the ultimate burden of persuasion is properly on the permittee in 43 CFR 4.1376(a). *Cf.* 43 CFR 4.1171(b).

A comment suggested that OSM should bear the ultimate burden of persuasion in accordance with 30 U.S.C. 1256(d)(1) if it denies an application for permit renewal. To clarify that this would be so under 43 CFR 4.1376(b), the words "or disapproval" are added. The applicant for a permit revision, however, properly bears the ultimate burden under 4.1376(c)(1). 30 U.S.C. 1260(a).

A comment suggested 43 CFR 4.1377 (as well as 4.1367) could be deleted as unnecessary. Temporary relief could be important to any party (*e.g.*, to a permittee wishing relief from a condition imposed by OSM), so procedures based on 30 U.S.C. 1264(d) have been retained. A comment suggesting that a request for temporary relief should be decided within a specified period of time cannot be accepted, however. 43 CFR 4.1367(e) and 4.1377(e), and 43 CFR 4.1367(f)(2) and 4.1377(f)(2), respectively require the administrative law judges and the Board to issue such decisions expeditiously, but it is not practical to limit the administrative law judges or the Board to specified times to decide certain kinds of cases, given their other responsibilities. Unlike 30 U.S.C. 1275(c), 30 U.S.C. 1264(d) does not require decisions on requests for temporary relief within a certain time.

Review of Approval or Disapproval of a Coal Exploration Permit Application

30 U.S.C. 1262 governs coal exploration operations and 30 CFR 772.12(e)(2) provids for administrative review of OSM decisions on applications for coal exploration permits. Proposed rules 43 CFR 4.1380–4.1388 implement these provisions.

43 CFR 4.1380 has been revised to clarify the scope of applicability of these procedures. Only applications for permits to conduct coal exploration operations involving the removal of more than 250 tons under a Federal program are covered. Notices submitted for removal of less than that amount under 30 CFR 772.11 are not subject to administrative review. The references to the Federal lands program and the Federal program for Indian lands are deleted because coal exploration operations on those lands are regulated by the Bureau of Land Management (BLM) under 43 CFR Part 3480 and 30 CFR 750.6(b), respectively. Appeals from BLM decisions are the subject of 43 CFR Part 4, Subpart E.

Comments objecting to a stay of the issuance of a permit as a result of the filing of a request for review of the approval of a permit were not accepted. The Act does not mandate issuance of a coal exploration permit upon approval of an application, and a stay of coal exploration operations pending completion of administrative review is unlikely to cause the applicant hardship. However, provisions have been added (43 CFR 4.1387) so that an applicant or any person having an interest which is or may be adversely affected may seek temporary relief of an OSM decision.

As with an application for an initial permit or pemit revision under 30 U.S.C. 1260(a), the applicant bears the ultimate burden of persuasion under 43 CFR 4.1386(a) that he is entitled to approval of the application.

Review of OSM Determinations of Issues Under 30 CFR Part 761

Section 522(e) of the Act, 30 U.S.C. 1272(e), prohibits surface coal mining operations on certain lands "subject to valid existing rights" and except for operations "which exist on the date of enactment of this Act." 30 CFR 761.12(h) provides for administrative review of determinations under 30 U.S.C. 1272)e). Proposed rules 43 CFR 4.1390–4.1395 implement these provisions.

Because these determinations will usually involve legal rather than factual issues, 43 CFR 4.1391(a) has been revised to provide that the request for review may be filed with the Board of Land Appeals rather than the Hearings Division. If the Board determines a fact-finding hearing is necessary it may order one under 43 CFR 4.415. 43 CFR 4.1393 and 4.1396, as proposed on April 9, 1986, are therefore deleted.

43 CFR 4.1394 is renumbered 4.1393 and revised to provide that 43 CFR 4.21(a) is applicable to OSM determinations under 30 U.S.C. 1272(e). That regulation provides:

(a) *Effect of decision pending appeal.* Except as otherwise provided by law or other pertinent regulation, a decision will not be effective during the time in which a person adversely affected may file a notice of appeal, and the timely filing of a notice of appeal will suspend the effect of the decision appealed from pending the decision on appeal. However, when the public interest requires, the Director or an Appeals Board may provide that a decision or any part of it shall be in full force and effect immediately.

43 CFR 4.1395 is renumbered § 4.1394.

Miscellaneous Issues

A comment suggesting that bond release and bond forfeiture decisions be subject to administrative review by the Office of Hearings and Appeals was not accepted. 30 U.S.C. 1269 does not require adjudication under the Administrative Procedure Act for the public hearings on bond releases. *See* 30 CFR 800.40. Adequate due process is available via administrative review of the notices of violation and cessation orders that precede bond forfeiture.

A comment questioned whether review of decisions of the Director of OSM were affected by these proposed rules. Except for the decisions under 30 U.S.C. 1272(e) covered by 43 CFR 4.1390–4.1394, these rules do not affect review of decisions made by the Director of OSM.

Determination of Effects

Because these rules only set forth the details of procedures for conducting hearings and appeals of decisions of the Office of Surface Mining Reclamation and Enforcement under the Surface Mining Control and Reclamation Act of 1977, the Department has determined that they are not major, as defined by Executive Order 12291, and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

National Environmental Policy Act

The Department has determined that this proposed rule will not significantly affect the quality of the human environment on the basis of the categorical exclusion of regulations of a procedural nature set forth in 516 DM 2, Appendix 1, § 1.10.

Paperwork Reduction Act

The proposed rules contain no information collection requirements requiring Office of Management and Budget approval under 44 U.S.C. 3501 *et seq.*

The author of these regulations is Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure; mines; public lands-mineral resources; surface mining.

For the reasons set forth in the preamble, Subpart L and M of Part 4 of Title 43 of the Code of Federal Regulations is proposed to be amended as set forth below.

Dated: August 29, 1986.

Paul T. Baird,

Director, Office of Hearings and Appeals.

PART 4—[AMENDED]

43 CFR Part 4 is amended as follows:

1. The authority citation for Part 4, Subpart L, continues to read as follows:

Authority: 30 U.S.C. 1256, 1260, 1261, 1268, 1271, 1272, 1275, 1293; 5 U.S.C. 301.

2. 43 CFR Part 4, Subpart L, is amended by adding new center headings and §§ 4.1350 through 4.1394 to read as follows:

3. The authority for Part 4, Subpart M continues to read as follows:

Authority: 5 U.S.C. 301.

4. 43 CFR Part 4, Subpart M, is amended by redesignating existing §§ 4.1300–4.1310 as §§ 4.1600–4.1610. All references to §§ 4.1300–4.1310 are changed to reference §§ 4.1600–4.1610 respectively.

Request for Hearing on a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations Under Section 510(c) of the Act, 30 U.S.C. 1260(c) (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

Sec.
4.1350 Scope.
4.1351 Preliminary finding by OSM.
4.1352 Who may file; where to file; when to file.
4.1353 Contents of request.
4.1354 Determination by the administrative law judge.
4.1355 Burden of proof.
4.1356 Appeals.

Request for Review of Approval or Disapproval of Applications for New Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

4.1360 Scope.
4.1361 Who may file.
4.1362 Where to file; when to file.
4.1363 Contents of request; amendment of request; responses.
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Requests for Review Concerning Permit Revisions, Permit Renewals, and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

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Request for Review of Approval or Disapproval of a Coal Exploration Permit Application (Federal Program)

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4.1386 Burden of proof.
4.1387 Request for temporary relief.
4.1388 Petitions for discretionary review.

Request for Review of OSM Determinations of Issues Under 30 CFR Part 761 (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

4.1390 Scope.
4.1391 Who may file; where to file; when to file.
4.1392 Contents of request; amendment of request; responses.

4.1393 Status of decision pending administrative review.
4.1394 Burden of proof.

Request for Hearing on a Preliminary Finding Concerning a Demonstrated Pattern of Willful Violations Under Section 510(c) of the Act, 30 U.S.C. § 1260(c) (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1350 Scope.

These rules set forth the procedures for obtaining review of a preliminary finding by OSM, prior to approval or disapproval of a permit application, that the applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this Act or the applicable State or Federal program.

§ 4.1351 Preliminary finding by OSM.

If OSM determines during review of the permit application that the applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply, OSM shall issue the applicant or operator a notice of such preliminary finding. The notice shall state with specificity the violations upon which the preliminary finding is based.

§ 4.1352 Who may file; where to file; when to file.

(a) The applicant or operator may file a request for hearing on OSM's preliminary finding of a domonstrated pattern of willful violations.

(b) The request for hearing shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800), within 30 days of receipt by the applicant or operator of the notice of the peliminary finding.

(c) Failure to timely file a request shall constitute a waiver of the opportunity for a hearing prior to a final finding by OSM concerning a demonstrated pattern of willful violations, and the request shall be dismissed.

§ 4.1353 Contents of request.

The request for hearing shall include—

(a) A clear statement of the facts entitling the one requesting the hearing to administrative relief;

(b) An explanation of the alleged errors in OSM's preliminary finding; and

(c) Any other relevant information.

§ 4.1354 Determination by the administrative law judge.

The administrative law judge shall promptly set a time and place for and give notice of the hearing to the applicant or operator and shall issue a decision within 60 days of the filing of a request for hearing. The hearing shall be of record and governed by 5 U.S.C. 554.

§ 4.1355 Burden of proof.

(a) OSM shall have the burden of going forward to establish a prima facie case as to the existence of a demonstrated pattern of willful violations of the Act or the applicable State or Federal program which are of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply.

(b) The ultimate burden of persuasion shall rest with the person requesting a hearing.

§ 4.1356 Appeals.

(a) Any party aggrieved by the decision of the administrative law judge may appeal to the Board under procedures set forth in § 4.1271 *et seq.* of this subpart, except that the notice of appeal must filed within 20 days of receipt of the administrative law judge's decision.

(b) The Board shall order an expedited briefing schedule and shall issue a decision within 45 days of the filing of the appeal.

Request for Review of Approval or Disapproval of Applications for New Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1360 Scope.

These rules set forth the procedures for review of decisions by OSM on applications for new permits, including applications under 30 CFR Part 785, and the terms and conditions imposed or not imposed in permits by those decisions. They do not apply to decisions on applications to mine on Federal lands in states where the terms of a cooperative agreement provide for the applicability of alternative administrative procedures (*see* 30 CFR 755.11(c); 48 FR 44384 (Sept. 28, 1983)), but they do apply to OSM decisions on applications for Federal lands in states with cooperative agreements where OSM as well as the state issue Federal lands permits.

§ 4.1361 Who may file.

The applicant or any person having an interest which is or may be adversely affected by a decision of OSM to approve or disapprove a permit application, in whole or in part, may file a request for review of that decision.

§ 4.1362 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800), within 30 days after the applicant is notified of OSM's written decision approving or disapproving the permit application in whole or in part.

(b) Failure to file a request for review within the time specified in paragraph (a) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

§ 4.1363 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the facts entitling the one requesting review to administrative relief;

(2) An explanation of the alleged errors in OSM's decision;

(3) A request for specific relief;

(4) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(5) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review, or a statement that no answer or motion will be filed, within 15 days of receipt of the request specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the administrative law judge. A request for review may not be amended after a hearing commences.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the administrative law judge grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting it.

§ 4.1364 Time for hearing; notice of hearing; waiver of time for hearing or issuance of decision.

(a) The administrative law judge shall commence a hearing within 30 days of the date of the filing of the request for review or amended request for review and shall simultaneously notify the applicant and all interested parties of the time and place of such hearing before the hearing commences. The hearing shall be of record and governed by 5 U.S.C. 554.

(b) The administrative law judge may allow more than thirty days for commencement of the hearing and the administrative law judge or the Board may allow more than thirty days for issuance of a written decision upon motion signed by all parties.

§ 4.1365 Status of permit pending administrative review.

The filing of a request for review of the approval of an application for a permit shall not suspend the permit pending completion of administrative review.

§ 4.1366 Burden of proof.

(a) If the permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with the applicable requirements of the Act or the regulations or as to the appropriateness of the permit terms and conditions, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the permit or as to the inappropriateness of the permit terms and conditions.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the permit application fails in some manner to comply with the applicable requirements of the Act or the regulations, or the appropriateness of terms and conditions that were not imposed by OSM.

§ 4.1367 Request for temporary relief from a decision to approve or disapprove a permit application in whole or in part.

(a) Where review is requested pursuant to § 4.1362, any party may file a request for temporary relief at any time prior to a decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where a permit application has been disapproved in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the application shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

(c) The application shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceeding; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue reaised by the application.

(e) The administrative law judge shall issue expeditiously an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding; and

(3) Such relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(f) Appeals of temporary relief decisions.

(1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board, or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1368 Determination by the administrative law judge.

The administrative law judge shall issue a written decision in accordance with 43 CFR 4.1127 within 10 days of the date the hearing record is closed by the administrative law judge, unless more than thirty days after a hearing for issuance of the decision has been allowed in accordance with 43 CFR 4.1364(b).

§ 4.1369 Petitions for discretionary review.

(a) Any party aggrieved by a decision of an administrative law judge shall have five days from receipt of the decision to file a petition for discretionary review with the Board, unless more than thirty days after hearing has been allowed for issuance of a decision in accordance with 43 CFR 4.1364(b), in which case the petition shall be filed within thirty days of receipt of the decision. The five-day period shall not be tolled over weekends, holidays, or other nonbusiness days. A copy of the petition shall be served on the administrative law judge who issued the decision as well as on all other parties in the proceeding.

(b) The petition shall contain a statement of reasons in support and shall attach a copy of the decision.

(c) All parties may file a response to the petition within five days of receipt.

(d) The Board shall grant or deny the petition by order within five days of the filing of the responses. If the petition is granted and more than thirty days for issuance of a decision has not been allowed in accordance with 43 CFR 4.1364(b), the Board shall issue a decision within five days of granting the petition.

Requests for Review Concerning Permit Revisions, Permit Renewals, and the Transfer, Assignment, or Sale of Rights Granted Under Permits (Federal Program; Federal Lands Program; Federal Program for Indian Lands)

§ 4.1370 Scope.

These rules set forth the procedures for obtaining review of decisions by OSM concerning permit revisions, permit renewals, and the transfer, assignment or sale of rights granted under permits.

§ 4.1371 Who may file; where to file.

The applicant, permittee, or any person having an interest which is or may be adversely affected by a decision of OSM ordering revision of a permit, or approving or disapproving applications for permit revisions, permit renewals, or the transfer, assignment or sale of rights granted under permits, may file a request for review of that decision with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

§ 4.1372 When to file.

(a) The request for review shall be filed within 30 days after the applicant

or permittee is notified of OSM's written order or decision.

(b) Failure to file a request for review within the time specified in paragraph (a) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

§ 4.1373 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the facts entitling the one requesting review to administrative relief;

(2) An explanation of the alleged errors in OSM's decision;

(3) A request for specific relief;

(4) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(5) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review of a statement that no answer or motion will be filed, within 15 days of receipt specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the administrative law judge. A request for review may not be amended after a hearing commences.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the administrative law judge grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting the motion.

§ 4.1374 Notice of hearing.

The administrative law judge shall notify the applicant or permittee and all interested parties of the time and place of the hearing. The hearing shall be of record and governed by 5 U.S.C. 554.

§ 4.1375 Status of decision pending administrative review.

The filing of a request for review of the approval or disapproval of an application for a permit revision, permit renewal, or the transfer, assignment, or sale or rights granted under a permit or of an order requiring revision of a permit shall not stay the effectiveness of the decision pending completion of administrative review.

§ 4.1376 Burden of proof.

(a) In a proceeding to review a permit revision ordered by OSM, OSM shall have the burden of going forward to establish a prima facie case that the permit should be revised and the permittee shall have the ultimate burden of persuasion.

(b) In a proceeding to review the approval or disapproval of an application for a permit renewal, those parties opposing renewal shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the renewal application should be disapproved.

(c) In a proceeding to review the approval or disapproval of an application for a permit revision or an application for the transfer, assignment, or sale of rights granted under a permit—

(1) If the applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with applicable requirements of the Act or the regulations, and the applicant requesting review shall have the ultimate burden of persuasion as to entitlement to approval of the application; and

(2) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the application fails in some manner to comply with the applicable requirements of the Act and the regulations.

§ 4.1377 Request for temporary relief.

(a) Where review is requested pursuant to § 4.1371, any party may file a request for temporary relief at any time prior to decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where an application has been disapproved in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the request shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800).

(c) The request shall include—

(1) A detailed written statement setting forth the reaons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceedings; and

(4) A showing that the relief sought will not be adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the request.

(e) The administrative law judge shall issue expeditiously an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding; and

(3) Such relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(f) Appeals of temporary relief decisions.

(1) Any party desiring to appeal the decisions of the administrative law judge granting or denying temporary relief may appeal to the Board or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1378 Petitions for discretionary review.

(a) Any party aggrieved by a decision of the administrative law judge on a request for review of a permit revision, permit renewal, or the transfer, assignment, or sale of rights may file a petition for discretionary review with the Board no later than thirty days from receipt of the decision. The time for filing a petition may not be extended.

(b) The petition shall contain a statement of reasons in support and shall attach a copy of the decision.

(c) All parties may file a response to the petition within twenty days of receipt.

(d) The Board shall grant or deny the petition by order within thirty days of the filing of responses.

Request for Review of Approval or Disapproval of a Coal Exploration Permit Application (Federal Program)

§ 4.1380 Scope.

These rules set forth the procedures for obtaining review, pursuant to 30 CFR 772.12(e)(2), of a decision by OSM to approve or disapprove a coal exploration permit application to remove more than 250 tons of coal.

§ 4.1381 Who may file.

The applicant or any person having an interest which is or may be adversely affected by a decision of OSM to approve or disapprove a coal exploration permit application, in whole or in part, may file a request for review of that decision.

§ 4.1382 Where to file; when to file.

(a) The request for review shall be filed with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203 (phone 703–235–3800), within 30 days after the applicant is notified of OSM's written decision approving or disapproving the coal exploration permit application.

(b) Failure to file a request for review within the time specified in paragraph (a) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

§ 4.1383 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the facts entitling the one requesting review to administrative relief;

(2) An explanation of the alleged errors in OSM's decision;

(3) A request for specific relief;

(4) A statement whether the person requests or waives the opportunity for an evidentiary hearing; and

(5) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review or a statement that no answer or motion will be filed within 15 days of receipt specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the administrative law judge. A request for review may not be amended after a hearing commences.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the administrative law judge grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting the motion.

§ 4.1384 Notice of hearing.

The administrative law judge shall notify the applicant and all interested parties of the time and place of the hearing. The hearing shall be of record and governed by 5 U.S.C. 554.

§ 4.1385 Status of permit pending administrative review.

The filing of a request for review of approval of an application for a coal exploration permit shall stay the issuance of the permit pending completion of administrative review.

§ 4.1386 Burden of proof.

(a) If the coal exploration permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case as to failure to comply with the applicable requirements of the Act or the regulations, and the permit applicant shall have the ultimate burden of persuasion as to entitlement to the approval.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that the application fails in some manner to comply with the applicable requirements of the Act or the regulations.

§ 4.1387 Request for temporary relief.

(a) Where review is requested pursuant to § 4.1381, any party may file a request for temporary relief at any time prior to decision by an administrative law judge, so long as the relief sought is not the issuance of a permit where an application has been disapproved in whole or in part.

(b) The request shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the request shall be filed in the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203 (phone 703–235–3800).

(c) The request shall include—

(1) A detailed written statement setting forth the reasons why relief should be granted;

(2) A statement of the specific relief requested;

(3) A showing that there is a substantial likelihood that the person seeking relief will prevail on the merits of the final determination of the proceedings; and

(4) A showing that the relief sought will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(d) The administrative law judge may hold a hearing on any issue raised by the request.

(e) The administrative law judge shall issue expeditiously an order or decision granting or denying such temporary relief. Temporary relief may be granted only if—

(1) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(2) The person requesting such relief shows a substantial likelihood of prevailing on the merits of the final determination of the proceeding; and

(3) Such relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources.

(f) Appeals of temporary relief decisions.

(1) Any party desiring to appeal the decision of the administrative law judge granting or denying temporary relief may appeal to the Board or, in the alternative, may seek judicial review pursuant to section 526(a), 30 U.S.C. 1276(a), of the Act.

(2) The Board shall issue an expedited briefing schedule and shall issue a decision on the appeal expeditiously.

§ 4.1388 Petitions for discretionary review.

(a) Any party aggrieved by a decision of the administrative law judge on a request for review of an application for a coal exploration permit may file a petition for discretionary review with the Board no later than thirty days from receipt of the decision. The time for filing a petition may not be extended.

(b) The petition shall contain a statement of reasons in support and shall attach a copy of the decision.

(c) All parties may file a response to the petition within twenty days of receipt.

(d) The Board shall grant or deny the petition by order within thirty days of the filing of responses.

Request for Review of OSM Determinations of Issues Under 30 CFR Part 761 (Federal Program; Federal Lands Program; Federal Program for Indian Lands).

§ 4.1390 Scope.

These rules set forth procedures for obtaining review pursuant to 30 CFR 761.12(h) of a determination by OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, on lands where operations are prohibited or limited by section 522(e) of the Act, 30 U.S.C. 1272(e), or that surface coal mining operations may be permitted within the boundaries of a national forest in accordance with section 522(e)(2).

§ 4.1391 Who may file; where to file; when to file.

(a) The permit applicant or any person with an interest which is or may be adversely affected by a determination of OSM that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, or that surface coal mining operations may be permitted within the boundaries of a national forest, may file a request for review of that determination with the Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203 (phone 703-235-3750).

(b) The request for review shall be filed within 30 days after the applicant or permittee is notified of OSM's written determination.

(c) Failure to file a request for review within the time specified in paragraph (b) of this section shall constitute a waiver of a hearing and the request shall be dismissed.

§ 4.1392 Contents of request; amendment of request; responses.

(a) The request for review shall include—

(1) A clear statement of the reasons for appeal;

(2) A request for specific relief;

(3) A copy of the decision appealed from; and

(4) Any other relevant information.

(b) All interested parties shall file an answer or motion in response to a request for review or a statement that no answer or motion will be filed within 15 days of receipt specifically admitting or denying facts or alleged errors stated in the request and setting forth any other matters to be considered on review.

(c) A request for review may be amended once as a matter of right prior to receipt of an answer or motion or statement filed in accordance with paragraph (b) of this section. Thereafter, a motion for leave to amend the request shall be filed with the Board.

(d) An interested party shall have 10 days from receipt of a request for review that is amended as a matter of right or the time remaining for response to the original request to file an answer, motion, or statement in accordance with paragraph (b) of this section, whichever is longer. If the Board grants a motion to amend a request for review, the time for an interested party to file an answer, motion, or statement shall be set forth in the order granting the motion.

§ 4.1393 Status of decision pending administrative review.

43 CFR 4.21(a) applies to determinations of the Office of Surface Mining under 30 U.S.C. 1272(e).

§ 4.1394 Burden of proof.

(a) If the permit applicant is seeking review, OSM shall have the burden of going forward to establish a prima facie case and the permit applicant shall have the ultimate burden of persuasion.

(b) If any other person is seeking review, that person shall have the burden of going forward to establish a prima facie case and the ultimate burden of persuasion that a person holds or does not hold a valid existing right, or that surface coal mining operations did or did not exist on the date of enactment of the Act, or that surface coal mining operations may or may not be permitted within the boundaires of a national forest.

[FR Doc. 86-22360 Filed 10-1-86; 8:45 am]

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Notices

Federal Register
Vol. 51, No. 191
Thursday, October 2, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection:

Agency Clearance Officer—Melvin E. Beetle, (202) 634–9318.

Agency address: ACTION, 806 Connecticut Ave., NW., Washington, DC 20525.

Office of ACTION issuing the Proposal: Office of Management and Budget

Title of Form: Financial Status Report

Type of Request: Extension (No burden change)

Frequency of Collection: Quarterly

General Description of Respondents: State and local governments; non-profit organizations

Estimated Number of Annual Responses: 6,000

Estimated Annual Reporting or Disclosure Burden: 18,000

Respondent's Obligation to Reply: Mandatory

Person responsible for OMB Review: Bruce Artim, (202) 395–7316.

Dated: September 26, 1986.

Melvin E. Beetle,

ACTION Clearance Officer.

[FR Doc. 86–22369 Filed 10–1–86; 8:45 am]

BILLING CODE 6050–28–M

Information Collection Request Under Review

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ACTION: Information collection request under review.

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Information About This Proposed Collection:

Agency Clearance Officer—Melvin E. Beetle, (202) 634–9318.

Agency Address: ACTION, 806 Connecticut Ave., NW. Washington DC 20525.

Office of ACTION issuing the Proposal: Office of Compliance, Evaluation Division

Title of Form: Demonstration volunteer management support program goal accomplishment and perceived effects evaluation

Type of Request: New

Frequency of Collection: One round of data collection

General Description of Respondents: VMSP Volunteer and staff of VMSP/MBDA organizations

Estimated Number of Annual Responses: 162

Estimated Annual Reporting or Disclosure Burden: 114.2 hours

Respondent's Obligation to Reply: Voluntary

Person responsible for OMB Review: Judy McIntosh, (202) 395–6880.

Dated: September 23, 1986.

Melvin E. Beetle,

ACTION Clearance Officer.

[FR Doc. 86–22368 Filed 10–1–86; 8:45 am]

BILLING CODE 6050–28–M

Foster Grandparent and Senior Companion Programs; Income Eligibility Levels

AGENCY: ACTION.

ACTION: Notice of revision of income eligibility levels for Foster Grandparent and Senior Companion Programs.

SUMMARY: This notice revises the schedules of income eligibility levels for individuals and families for the Foster Grandparent and Senior Companion Programs published in the **Federal Register** June 25, 1986 (51 FR 23108). This revision incorporates adjustments to eligibility levels of certain States which were not made in the previous notice. The revised schedule is based on Poverty Guidelines from the Department of Health and Human Services (DHHS) published in the **Federal Register**, February 11, 1986 (51 FR 5105). This revision adopts as the income eligibility level for each State the amount of either (a) 125 percent of the DHHS Poverty Income Guideline, or (b) 100 percent of the DHHS Poverty Income Guideline plus the amount each State supplements Federal Supplemental Security Income, rounded to the next highest multiple of $5.00.

Any person whose income is not more than 100 percent of the DHHS Poverty Income Guideline for his/her specific family unit status shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

EFFECTIVE DATE: October 2, 1986.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, Assistant Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue NW., Room M–1006, Washington, DC, 20525, or telephone (202) 634–9355.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to sections 211 and 213 of the

Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93-113, 87 Stat. 394. The income eligibility levels are determined by the current applicable guideline published by DHHS pursuant to sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which required poverty guidelines to be adjusted for Consumer Price Index changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes as a result of that review.

Schedule of Income Eligiblity Levels: Foster Grandparent and Senior Companion Programs.

For all States (except Alabama, Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Massachusetts, New Jersey and Wisconsin), the District of Columbia, Puerto Rico and the Virgin Islands:

	For Family Units Of:						
One	Two	Three	Four	Five	Six	Seven	Eight
$6,700	9,050	11,400	13,750	16,100	18,450	20,800	23,150

For the following States:

	For Family Units Of:							
State	One	Two	Three	Four	Five	Six	Seven	Eight
AL	$6,700	$10,425	$12,775	$15,125	$17,475	$19,825	$22,175	$24,525
AK	9,930	13,650	16,590	19,530	22,470	25,410	28,350	31,290
CA	7,725	13,060	15,410	17,760	20,110	22,460	24,810	27,160
CO	6,700	10,650	13,000	15,350	17,700	20,050	22,400	24,750
CT	7,110	9,050	11,400	13,750	16,100	18,450	20,800	23,150
DE	7,040	13,000	15,446	17,800	20,150	22,500	24,850	27,200
HI	7,715	10,415	13,115	15,815	18,815	21,215	23,915	26,615
MA	6,900	9,665	12,015	14,365	6,715	19,065	21,415	23,765
NJ	7,160	12,635	14,985	17,335	19,685	22,035	24,385	26,735
WI	6,700	9,215	11,565	13,915	16,265	18,615	20,965	23,315

For family units with more than eight members, add the appropriate supplement for each additional member (over eight) as follows:

Alaska	$2,940
Hawaii	2,700
All Others	2,350

All of the above levels are calculated from the base DHHS Poverty Income Guidelines now in effect.

Those guidelines are:

Size of family unit	For all States (except Alaska and Hawaii) and the District of Columbia	For Alaska	For Hawaii
1	$5,360	$6,700	$6,170
2	7,240	9,050	8,330
3	9,120	11,400	10,490
4	11,000	13,750	12,650
5	12,880	16,100	14,810
6	14,760	18,450	16,970
7	16,640	20,800	19,130
8	18,520	23,150	21,290

Signed in Washington, DC, on September 25, 1986.

Donna M. Alvarado,

Director of ACTION.

[FR Doc. 86-22367 Filed 10-1-86; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Forest Service

Trailside and Grassy Butte Oil and Gas Field Development Plan; Little Missouri National Grasslands Administered by the Custer National Forest McKenzie County, ND; Intent To Prepare an Environmental Assessment

The USDA, Forest Service, as lead agency, and the USDI, Bureau Land Management will cooperatively prepare an Environmental Assessment to disclose the environmental effects of a proposed development of the Trailside and Grassy Butte Oil and Gas fields on the McKenzie Ranger Distict.

In 1985 a proponent had proposed to drill a well in the SE¼, section 4, T147N, R100W. The Bureau Land Management considers this proposed well to be a confirmation well that, in this case, requires the preparation a Field Development Environmental Assessment. A Notice of Intent to prepare an Environmental Assessment and to conduct a public meeting to identify significant public issues was filed in the **Federal Register** Vol. 50, No 230 dated November 29, 1985. A public meeting was held on December 11, 1985 at Watford City, and comments were taken. Subsequent to the publication of the Notice of Intent, action was suspended on the Environmental Assessment and, consequentlv no decision was made on the original proposal. In 1986 five additional well sites were staked in the Trailside and Grassy Butte Fields. All six of these sites are located in the area designated as the Bennett-Cottonwood Essentially Roadless Area (ERA).

Federal, State and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

4. Identification of possible alternatives.

5. Determination of potential cooperating agencies and assignment of responsibilities.

6. Identification of a recommended alternative.

The District Ranger will hold a public meeting at the Watford City Civic Center, Watford City, North Dakota, at 7 p.m. Wednesday, November 5, 1986. A pubic meeting will also be held at Gate City Saving and Loan Building in Dickinson, North Dakota, at 7 p.m. Thursday, November 6, 1986. One of the purposes of these meetings will be to validate the issues identified at the public meeting held in 1985 at Watford City, and to identify any new or emerging issues.

David A. Filius, Forest Supervisor, P.O. Box 2556, Billings, MT 59103, is the responsible official.

Written comments and suggestions concerning the analysis should be sent to the District Ranger, Star Rt. 2, Box 8, Watford City, ND 58854 by December 22, 1986.

Questions about the proposed action and environmental assessment should be directed to Tex Williams, Minerals Assistant, McKenzie Ranger District, phone 701-842-2393.

Dated: September 25, 1986.

David A. Filius,

Forest Supervisor.

[FR Doc. 86-22335 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-11-M

Scientific Advisory Board, Mount St. Helens National Volcanic Monument; Gifford Pinchot National Forest; Meeting

The Mount St. Helens Scientific Advisory Board will meet at 9:00 a.m., November 6, 1986, at the Mount St. Helens National Volcanic Monument Visitor Center, Gifford Pinchot National Forest, 3029 Spirit Lake Highway, Castle Rock, Washington 98611, to receive information on and discuss the following:

1. A review of National Volcanic Monument scientist's concerns.
2. A review of the fish stocking history of National Volcanic Monument lakes.
3. Open discussion of topics of interest to the Advisory Board and public comments.

The meeting will be open to the public. Persons who wish to make a statement to the Board should notify Dr. Jack K. Winjum, Chairperson, c/o Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Washington 98660, 206-696-7570. Written statements may be filed with the Board before or after the meeting.

Dated: September 25, 1986.

Allan O. Lampi,

Acting Regional Forester.

[FR Doc. 86-22341 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Lovills Creek Watershed Site 9B, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lovills Creek Watershed Site 9B, Carroll County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. George C. Norris, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Richmond, Virginia 23240-9999, telephone (804) 771-2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Norris, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns the installation of a floodwater retarding structure Site 9B on Lovills Creek in Carroll County, Virginia. The structure will reduce floodwater damages to 65 structures in Mount Airy, North Carolina.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Norris, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Executive Order 12372 regarding intergovernmental review of federal and federally-assisted programs and projects is applicable)

Dated: September 23, 1986.

George C. Norris,

State Conservationist.

[FR Doc. 86-22332 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-16-M

Black Creek, MI; Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Black Creek Watershed, Allegan and Ottawa Counties, Michigan.

FOR FURTHER INFORMATION CONTACT: Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 S. Harrison Road, East Lansing, Michigan, 48823, telephone 517-337-6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection. The planned works of improvement include two floodwater retarding dams, 3700 acres of conservation tillage, 42 acres of grassed waterways, 16 grade stabilization structures, 185 acres of tree plantings, and accelerated technical assistance for land treatment.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Homer R. Hilner.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: September 25, 1986.

Jerry L. Keller,

Deputy State Conservationist.

[FR Doc. 86-22261 Filed 10-1-86; 8:45 am]

BILLING CODE 3410-16-M

Tyronza River Watershed, Arkansas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Gene Sullivan, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001 through

1008, in the State of Arkansas, is hereby providing notification that a record of decision to proceed with the installation of the Tyronza River Watershed project is available. Single copies of this record of decision my be obtained from Gene Sullivan at the address shown below.

FOR FURTHER INFORMATION CONTACT: Gene Sullivan, State Conservationist, Soil Conservation Service, Room 5423 Federal Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201. Telephone: 501–378–5445.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires integovernmental consultation with State and local officials.

Dated: September 24, 1986.

Gene Sullivan,

State Conservationist.

[FR Doc. 85–22250 Filed 10–1–86; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidation Decision on Applications for Duty-Free Entry of Electron Microscopes; Veterans Administration Medical Center et al.

Correction.

In FR Doc. 86–21858, beginning on page 34238, in the issue of Friday, September 26, 1986, make the following correction:

On page 34238, in column three, the fifteenth line, after the first two words insert: "California at".

BILLING CODE 1505–01–M

National Technical Information Service

Intent To Grant Exclusive Patent License; Medical Dynamics, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Medical Dynamics, Inc. having a place of business in Englewood, Colorado an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "Use of Paramagnetic Metalloporphyrins as Contrast Agents for Tumors in NMR Imaging," U.S. Patent Application Serial Number 6–706,622. The patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.9. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 86–22294 Filed 10–1–86; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATES: 14 October and 5 November 1986, 9:00 a.m. to 5:00 p.m. each day.

ADDRESS: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20301. (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on U.S. Strategic Defense Initiative.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 29, 1986.

[FR Doc. 86–22292 Filed 10–1–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board, Meeting

September 25, 1986.

The meeting of the USAF Scientific Advisory Board Engineering and Services Advisory Group published in the **Federal Register** on September 19, 1986, (51 FR 33292) has been changed. Meeting location for October 16, 1986 will be Kirtland AFB, NM. October 17, 1986 location as well as all other information remains the same.

The purpose of the meetings will be to receive classified briefings on results of recent SAB studies.

These meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–22305 Filed 10–1–86; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate; Grant Award, National Academy of Sciences

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis a grant of $70,000 to the National Academy of Sciences.

Procurement Request No: 01–86CE31010.000

Project Scope: National Academy of Sciences, National Research Council, will conduct a study to address the effectiveness of the government-industry-academia infrastructure in support of research in geothermal technologies. Infrastructure describes communication links, cooperative efforts, coordination between and among programs, and technology transfer between the three sectors. This study will identify the difficulties and recommend alternatives for developing an effective cooperative research program in geothermal energy.

This activity to enhance the effectiveness of the government-

industry-academia infrastructure in geothermal technologies research is in furtherance of the DOE mission to ensure a continued source of energy to the consumer in a safe, economic and environmentally acceptable manner. The National Academy of Sciences is uniquely qualified to effect an unbiased and scientific report that will generate improved cooperative in government-industry-academia geothermal technology research. Therefore, is has been determined that it is appropriate to award this grant to the National Academy of Sciences on a restricted eligibility basis.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–1024.

Issued in Washington, DC on September 29, 1986.

Robert J. Walsh,

Acting Director, Contract Operations Division "A", Office of Procurement Operations.

[FR Doc. 86–22349 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate; Field Fleet Tests of Computerized Driver Controller For Diesel Engine Braking System; CAMACAN, Inc.

AGENCY: Department of Energy (DOE).

ACTION: Notice of restricted eligibility for a grant award.

SUMMARY: DOE announced that it is awarding a grant to CAMACAN, INC. pursuant to 10 CFR 600.7(b). The award will allow CAMACAN to field fleet test a fleet of computerized driver controllers for diesel engine braking systems in the amount of $21,975.

Procurement Request Number: 01–86CE15274.000

Authorities: DOE Organization Act, Pub. L. 95–91, 41 U.S.C 7101; Federal Non-Nuclear Energy Research and Development Act of 1974, Pub. L. 93–577, 42 U.S.C. 5901 *et seq;* DOE Financial Assistance Rules, 10 CFR Part 600, 600.7(b), (47 FR 44086, October 5, 1982).

Scope of Work:

The Grant will be to allow the field testing of the computerized driver controller for diesel engine braking systems. The grantee will provide for the production, installation, and performance data collection and interpretation.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Helen D. Carmona, MA–453.2, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–1017.

Edward T. Lovett,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 86–22353 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate; Continuation Grant to the National Academy of Sciences

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restricted eligibility for grant award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis a continuation grant to the National Academy of Sciences to support the International Atomic Energy Agency Fellowship Program. The DOE support under this grant will be $800,000 over a twelve month period.

Procurement request No.: 01–86IE10484.001.

Project scope: The NAS will provide technical advice and administrative assistance and will be responsible for the day-to-day implementation of U.S. commitments to the International Atomic Energy Agency (IAEA) to provide scientists from developing countries with opportunities for training and study in the United States in the field of nuclear science and its application for peaceful uses. These scientists are selected by the IAEA. The IAEA fellowship program was initiated in April 1958.

The NAS was awarded a five year project grant in September 1985. The DOE has determined that award of this second budget year funding to the NAS Grant on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–1024.

Issued in Washington, DC on September 26, 1986.

Robert J. Walsh,

Acting Director, Contract Operations, Division "A", Office of Procurement Operations.

[FR Doc. 86–22264 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

Procurement and Assistance Management Directorate; Grant Award to National Academy of Sciences; Restriction of Eligibility

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b) it intends to award on a restricted eligibility basis a grant to the National Academy of Sciences (NAS) to support the Board on Chemical Sciences and Technology (BCST). The DOE support under this grant will be $30,000 over a seven month period.

Procurement request number: 01–86FE61132.000.

Project scope: The NAS BCST is to develop a study on Future Directions in Fundamental Science for Fossil Energy Research. The objective is to delve into novel and promising areas of fundamental fossil fuels research, the scientific questions that cut across the full spectrum of fossil fuels, and the current research areas that may be broadened or refocused beyond their current focus on coal science and technology.

The NAS is uniquely qualified to develop an unbiased and prestigious study due to its closeness to and ties with the world of academia and the scientific community. Such study will be of immense value to the DOE in fulfilling its mission to ensure a continued supply of fossil fuels to the consumer in a safe economic and environmentally acceptable manner.

Therefore, it has been determined it is appropriate to award this grant to the NAS on a restricted eligibility basis.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA–452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5569.

Issued in Washington, DC on September 26, 1986.

Robert J. Walsh,

Acting Director, Contract Operations Division "A", Office of Procurement Operations.

[FR Doc. 86–22263 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Consent Order With Calumet Industries, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final action on proposed consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed consent order between the Department of Energy (DOE) and Calumet Industries, Inc. (Calumet) should be issued as a final order of the DOE without amendment. The consent order resolves all remaining issues relating to Calumet's compliance with the federal petroleum price and allocation regulations during the period August 19, 1973 through January 27, 1981. Calumet will pay DOE a total amount of $800,000 to be deposited in a suitable account for appropriate disposition by DOE.

Persons claiming to have been harmed by Calumet's alleged misreporting will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA).

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, Washington, DC 20585, Telephone: 202–252–4387.

SUPPLEMENTARY INFORMATION:

I. Background

On July 8, 1986, ERA issued a notice announcing a proposed consent order between DOE and Calumet which would resolve all civil and administrative disputes, claims and causes of actions relating to the Calumet's compliance with the federal petroleum price and allocation regulations during the period August 19, 1973 through January 27, 1981 (51 FR 26463, July 23, 1986). Included in the settlement was the resolution of the Notice of Probable Violation issued to Calumet on December 24, 1980 (Case Number NOOS90139) charging Calumet with violations of the Entitlements Program amounting to $755,323 (with interest through March 1986 of $1,177,232).

The proposed consent order requires Calumet to pay DOE a total of $800,000, $400,000 of which is to be paid within 10 days after the effective date of the consent order and the remaining $400,000, plus interest, to be paid within two years. DOE will deposit the payments in the Deposit Fund Escrow Account and petition the OHA to conduct a special refund proceeding pursuant to 10 CFR Part 205, Subpart V.

The July 8th notice detailed the basis of ERA's view that the settlement provided a favorable recovery by the government and was in the public interest. The notice solicited written comments from the public concerning the terms and conditions of the settlement. The consent order also provides for the maintenance of records, disclosure of information and for its enforcement.

II. Comments

ERA received comments from the Controller of California and a representative of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah and West Virginia. The comments concerned the disposition of the funds DOE would receive from Calumet pursuant to the consent order. Both maintained that the "Modified Restitutionary Policy in Crude Oil Cases" (51 FR 27899, August 4, 1986), announced by DOE as a result of the Settlement Agreement in the *Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378 (D. Kan.), requires that a set proportion of the funds be distributed to the states. The Controller of California further maintains that distribution of 80 percent of this be made immediately upon receipt by DOE without any additional administrative proceedings.

Because the principal matter resolved by the consent order is an entitlements allegation, ERA agrees that the Stripper Well Settlement Agreement and the Statement of Modified Restitutionary Policy govern the disposition of funds in this case. Accordingly, a portion of the funds will be set aside for a Subpart V proceeding and the balance will be distributed to the States and DOE. However, neither the Agreement nor the Policy Statement required that the funds be made immediately available without adminstrative proceedings. Furthermore, the use of the Subpart V process does not conflict with either the Agreement or the Policy. In fact, the Agreement comtemplates that funds obtained by ERA will be submitted to the OHA, paragraph IV.B.4., and that OHA will set a 20 percent reserve in order to allow that "amounts in excess of the reserve shall be distributed while awaiting the completion of the first stage refund proceedings." Paragraph IV.B.6. Accordingly, it appears that there is not only no prohibition on the use of the Subpart V process in the distribution of funds to the States and DOE, it may be required. In any event, DOE has determined that the administrative responsibilities for the distribution can be managed better through OHA and the use of Subpart V.

III. Decision

As stated in the notice publishing the proposed consent order for comment, ERA believes the settlement is a satisfactory resolution of the matters remaining unresolved between DOE and Calumet. None of the comments disagreed with that conclusion. Accordingly, ERA has determined to issue the consent order as a final order.

By this notice, and pursuant to 10 CFR 205.199J, the proposed consent order between Calumet and DOE executed on May 15, 1986 is made a final order of the Department of Energy, effective on the date of publication of this notice in the **Federal Register**

Issued in Washington, DC September 17, 1986.

Marshall A. Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 86–22355 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–55–NG]

Direct Energy Marketing Limited, Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 17, 1986, of an application filed by Direct Energy Marketing Limited (DEML) a Canadian natural gas company, for blanket authorization to import into the U.S. from Canada up to 200 Bcf of natural gas over a two-year period beginning on the date of first delivery. DEML also seeks authorization to transfer its import authorization to its designated U.S. subsidiary corporation when created. The gas would be supplied from DEML's own shareholders' production and reserves and sold on a short-term or spot basis to U.S. purchasers, including pipelines, local distribution companies, and industrial end-users. DEML would either purchase and resell the imported gas or act as agent for its Canadian suppliers and U.S. purchasers. The specific terms of each import and sale would be individually negotiated and would be responsive to current market conditions. Accordingly to DEML, no new pipeline facilities will be required to import the gas. DEML or the proposed U.S. subsidiary will file quarterly reports with the ERA within 30 days of each quarter showing the quantities of gas imported, suppliers, purchasers, the average price paid per MMBtu, and

take-or-pay or make-up provisions, if any, in supply contracts.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 3, 1986.

FOR FURTHER INFORMATION:

Larine A. Moore, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478.

Diane Stubbs, Office of the General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. e.s.t., November 3, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of DEML's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 26, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–22351 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–36–NG]

Yankee International Co.; Order Granting Blanket Authorization To Export Natural Gas

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of order granting blanket authorization to export natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Yankee International Company (Yankee) a blanket authorization to export natural gas on a short-term or spot basis, primarily to Canada. The order issued in ERA Docket No. 86–36–NG authorizes Yankee to export up to 200 MMcf of natural gas per day and a maximum of 146 Bcf over a two-year period.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC., September 26, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–22350 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

[86–51–NG]

Natural Gas Imports, Kerr-McGee Chemical Corp.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 9, 1986, of an application filed by Kerr-McGee Chemical Corporation (Kerr-McGee Chemical) to import up to 18,000 Mcf of Canadian natural gas per day for use in the operation of its chemical manufacturing plants located near Trona and Argus, California. The imported volumes are to be purchased from KM Gas Company (KM Gas) at an initial price paid at the border of $2.28 per MMBtu (in Canadian dollars). The agreement with KM Gas has an initial term which begins on the date of first delivery and ends on October 31, 1988. Thereafter, it continues until terminated by either party.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protest, motions to intervene,

notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notice of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on November 3, 1986.

FOR FURTHER INFORMATION CONTACT:

P.J. Fleming, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–4819.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., (202) 252–6667.

SUPPLEMENTARY INFORMATION: The applicant and KM Gas are corporations registered in the State of Delaware, each of which is a wholly-owned subsidiary of Kerr-McGee Corporation (Kerr-McGee), also a Delaware corporation. Kerr-McGee owns oil and gas leasehold interests in the Canadian Province of Alberta. The import volumes supplied by KM Gas will come from the parent company and other Canadian sources. They will be transported from the international border near Kingsgate, British Columbia, through the existing pipeline facilities of Pacific Gas Transmission Company and in California through existing facilities of Pacific Gas and Electric Company.

With respect to pricing, the initial gas cost of $2.28 per MMBtu (in Canadian dollars) is set until November 30, 1986. Thereafter, either party may nominate at any time on 15 days notice the price Kerr-McGee Chemical will pay. If both parties do not agree to the new price either one would be entitled to terminate the sales contract. The sales price may never be less than the Canadian natural gas floor price established for exports by the Canadian government. There is no take-or-pay requirement for these purchases and no minimum bill obligation.

Further, the contract provides that if Kerr-McGee Chemical receives an offer from a third party to sell less expensive supplies, it would have the option to propose that the rate paid to KM Gas be reduced to equal the cheaper price. So long as KM Gas elects to match any bona fide below-contract offer, Kerr-McGee Chemical may not cancel their agreement before the end of the initial contract period.

In support of the application, Kerr-McGee Chemical asserts that the import proposal is not inconsistent with the public interest because it will furnish a reliable supply of natural gas to meet its manufacturing and heating requirements. Also, the applicant believes that the arrangement complies with DOE's gas import policy guidelines on the basis that the absence of minimum bill and tale-or-pay obligation taken together with the right to periodically adjust the price provide assurance that the gas will only be imported when it is fully competitive.

The decision on the application to import natural gas will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Kerr-McGee Chemical requests expedited treatment of its application given the fact that the authorization requested is similar to existing import authorizations. A decision on Kerr-McGee Chemical's request will be made after the close of the comment period established by this notice.

Public Comment Procedures

In response to the notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076–A, RG–23 Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m., November 3, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Kerr-McGee Chemical's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 24, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–22265 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–53–NG]

Natural Gas Imports, Wessely Marketing Corp.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on September 15, 1986, of an application from Wessely Marketing Corporation (Wessely) for blanket authorization to import up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery. Wessely, a corporation registered in the State of Delaware, is a wholly-owned subsidiary of Wessely Energy Corporation, a Texas firm whose business activities include producing and selling natural gas. Wessely would receive its supply of gas from Canadian sources in the Province of Alberta, and resell it on a short-term basis in the U.S. spot market. Each import and sale would be individually negotiated and contain market-based terms and prices. Wessely proposes to submit quarterly reports to the ERA describing each transaction. Only existing pipeline facilities would be used to transport the gas from the international border.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 3, 1986.

FOR FURTHER INFORMATION CONTACT:

P.J. Fleming, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482.

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. e.s.t., November 3, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Wessely's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, September 24, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–22266 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Forms EIA–820, "Annual Refinery Report" and EIA–810, "Monthly Refinery Report"

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of intent to revise Forms EIA–820, "Annual Refinery Report" and EIA–810, "Monthly Refinery Report.".

SUMMARY: The purpose of this notice is to inform interested parties of the intent to revise Forms EIA–820, "Annual Refinery Report" and EIA–810, "Monthly Refinery Report" for implementation in January 1987.

DATES: The Energy Information Administration (EIA) will consider any comments filed with the EIA on or before November 3, 1986.

ADDRESSES: Those wishing to provide comments should send them to: Susan J. Harris, Office of Oil and Gas, Energy Information Administration, Department of Energy, Mail Stop 2H–058, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–8384.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE REVISED FORMS AND INSTRUCTIONS, CONTACT: Petroleum Supply Division, Energy Information Administration, Department of Energy, Mail Stop 2E–050, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9884.

SUPPLEMENTARY INFORMATION: .

I. Background
II. Current Actions
III. Comments

I. Background

The Energy Information Administration (EIA) conducts an extensive review of petroleum supply survey forms every three years. The last review was conducted during 1985 and resulted in revisions to the Petroleum Supply Reporting System survey forms in January 1986. Review of the Form EIA–820, "Annual Refinery Report" was

postponed in order to incorporate the findings of the National Petroleum Council's (NPC) Refinery Capacity Study. The revisions to the Form EIA–820 and to the Form EIA–820, "Monthly Refinery Report," are the result of discussions held with participants in the NPC Study and with members of the petroleum industry.

II. Current Actions

The form changes are designed to reduce respondent burden, better reflect current refinery operations through updated terminology, and measure the utilization of key downstream processing units. These changes, along with the proposed changes to the publications in which the data are displayed, are summarized below:

Form EIA–820, "Annual Refinery Report"

1. Eliminate Sections 1 and 2.

2. Modify Section 4, "Operable Capacity (Operating Plus Idle) of Refining Facilities"

a. Combine Thermal Cracking types, Gas Oil (Code 424) and Other (Code 406) into a single category, "Other (include Gas Oil)."

b. Combine Catalytic Hydrotreating types, Naphtha (Code 426) and Reformer Feeds (Code 428) into a single category, "Naphtha/Reformer Feeds" and Residual Fuel Oil (Code 412) and Other (Code 429) into a single category, "Other (include Residual)."

c. Catalytic Reforming types, Conventional (Code 409) and Bi-metallic (Code 410) have been eliminated. Catalytic Reforming units will now be reported as low pressure processing units (less than 225 pounds per square inch gauge (PSIG) measured at the outlet separator) or as high pressure processing units (equal to or greater than 225 PSIG).

d. A new category, Fuels Solvent Deasphalting, is added to the charge capacity section.

e. A new category, Sulfur Recovery, is added to the production capacity section.

3. In the EIA publication, *Petroleum Supply Annual*, Volume I, Tables 29, 30, 31 and 36 will be modified to incorporate the revised reporting categories. Table 33 will be eliminated.

Form EIA–810, "Monthly Refinery Report"

1. Data will be collected on fresh feed input to Catalytic Cracking Units, Hydrocracking Units and Cokers in Section 1, "Refinery Input and Capacity."

2. In the EIA publication, *Petroleum Supply Monthly*, Table 13 will be modified to incorporate the additional categories for fresh food imports and the calculation of utilization rates.

3. In the EIA publication, *Petroleum Supply Annual*, Volumes I and II, Table 11 will also be modified to incorporate the additional categories for fresh feed inputs and the calculation of utilization rates.

III. Comments

For those wishing to comment on these revisions and modifications, the following guidelines to assist in preparation of responses are provided. If you are a possible data provider:

1. Considering these proposed deletions on the Form EIA–820, "Annual Refinery Report," how many hours will you require to complete and submit the required form?

2. Considering the proposed additions on the Form EIA–810, "Monthly Refinery Report," how many hours will you require to complete and submit the required form?

3. Do you agree that these revisions will better reflect current refinery operations and improve the measurement of utilization of downstream processing units that produce gasoline?

If you are a data user:

1. Do you need any of the elements of information that would be eliminated by these revisions? For what purposes would you use these data?

2. Do you agree that these revisions will better reflect current refinery operations and improve the measurement of utilization of downstream processing units that produce gasoline?

Comments or summaries of comments will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record. EIA is also interested in receiving comments concerning the need to continue the collection of the data required on these forms.

(Sections 13(b), 5(b), 5(a), and 52 of the Federal Energy Administration (FEA) Act of 1974, [15 U.S.C. 772(b), 764(b), 764(a) and 790a]).

Issued in Washington, DC on September 29, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 86–22352 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–11–M

Federal Energy Regulatory Commission

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Order Dismissing Requests for Waivers

Issued September 29, 1986

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Vessels Oil and Gas Company, Standard Gas Marketing Company, and French Petroleum Corporation filed requests for waivers of the transitional provisions of Order No. 436 [1] as they apply to transportation transactions performed by Panhandle Eastern Pipe Line Company and ANR Pipeline Company under section 311 of the Natural Gas Policy Act of 1978. We will dismiss the requests.

In *United Gas Pipe Line Company, et al.*, 35 FERC ¶ 61,424 (1986), we granted waivers of § 284.10(a)(1) of the Commission's Regulations in order that Panhandle and ANR, among other pipelines, could continue existing section 311 transactions, or begin new section 311 transactions, as long as they transported gas in a manner consistent with the other provisions of Order No. 436. Accordingly, Vessel's, Standard Gas's, and French's requests for waivers are moot because Panhandle and ANR can perform the section 311 transportation under the waivers granted in *United*. Vessel's, Standard Gas's, and French's requests for waivers are dismissed.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–22376 Filed 10–1–86; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders By the Office of Hearings and Appeals for the Week of August 11 Through August 15, 1986

During the week of August 11 through August 15, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

[1] 33 FERC ¶ 61,007 (1985); FERC Statutes and Regulations ¶ 30,665 (1985).

Motions for Discovery

Gear Petroleum Company, Inc., 8/14/86; (HRD-0133, HRH-0133)

On May 16, 1983, the Gear Petroleum Company, Inc. (Gear) filed Motions for Discovery and Evidentiary Hearing in connection with a Proposed Remedial Order (PRO). In the discovery motion, Gear sought access to documents and information relating to an audit of the firm by the Economic Regulatory Administration. In addition, Gear requested documents and information concerning (1) the newly discovered crude oil price rule, 10 C.F.R. 212.79, (2) Ruling 1980-3 which interprets the rule, and (3) Interpretation 1980-17.

In considering the discovery motion, the Department of Energy (DOE) found that all of Gear's requested administrative record discovery was non-discoverable because Gear had made no showing of improper promulgation. The DOE also found that the public administrative record of a regulation need not precisely explain the regulation promulgated, but only the basis for the agency action. Gear's requested discovery for audit material, contemporaneous construction, background material to Ruling 1980.3, evidence of document destruction, and the bulk of its legal contention discovery were denied as irrelevant to the resolution of the PRO. However, the DOE did allow seven of Gear's legal contention discovery interrogatories because, among other reasons, they were likely to produce relevant evidence that could clarify the contentions of the parties.

In considering the evidentiary hearing motion, the DOE found that a limited hearing should be convened due to conflicting documentation in the record. In order to fully inform the DOE of the facts to be adduced at the hearing, the DOE ordered the parties to file Briefs on the Kansas and Federal Law of Property Unitization. The DOE cautioned the parties, however, that legal arguments are inappropriate at an evidentiary hearing.

Texas Armada Refining Company and Economic Regulatory Administration, 8/15/86; HRD-0217, (HRH-0217, HRD-0260)

On April 16, 1984, Texas Armada Refining Co. (TARCO) filed Motions for Discovery and Evidentiary Hearing. In considering TARCO's Motion for Discovery, the DOE determined that contemporaneous construction discovery was unwarranted and that the firm had already been supplied with the audit workpapers upon which the PRO was based. TARCO was granted administrative record discovery of the official administrative record of the rulemaking proceedings relating to 10 C.F.R. $ 212.38, but discovery of material beyond the official record was denied. The DOE also determined that TARCO's Motion for Evidentiary Hearing failed even to attempt to satisfy the requirements of the DOE procedural requlations governing such motions. Accordingly, TARCO's Motion for Evidentiary Hearing was summarily denied.

On December 11, 1984 and May 23, 1985, the ERA filed Motions for Discovery seeking information relating to TARCO's corporate status and ownership. In considering these Motions, the DOE determined that TARCO had provided adequate responses to the ERA's first Motion, and that it was therefore unnecessary to rule on that Motion. The DOE further determined that the ERA's Supplemental Motion for Discovery was timely submitted and concerned issues that were both relevant and material to the proceeding. Accordingly, ERA's second Motion for Discovery was granted.

Interlocutory Orders

Economic Regulatory Administration, 8/14/86; (KRZ-0030)

On June 12, 1986, the Economic Regulatory Administration (ERA) filed a Motion to Disqualify Counsel from further participation in a proceeding concerning a Proposed Remedial Order (PRO) which alleges that Shell Oil Company violated the crude oil producer price regulations. The ERA claimed that there was a substantial relationship between past activities of Shell's counsel as an agency employee and his current arguments on behalf of Shell's crude oil property determinations. Thus, the ERA asserts that Shell's counsel should be disqualified in the PRO proceeding pursuant to the Disciplinary Rules of the Code of Professional Responsibility which generally prohibit a lawyer from accepting employment regarding matters in which he substantially participated as a public employee.

In considering the ERA's Motion, the DOE determined that there was no evidence to indicate that Shell's counsel, while an agency employee, had any personal knowledge of Shell's method of implementing the property definition or that he was involved in any investigative or deliberative process concerning Shell's implementation of the property definition. Therefore, the DOE found no reason to disqualify counsel from continuing to represent Shell in the PRO proceeding, and denied the ERA's Motion.

Economic Regulatory Administration/ Telum, Inc., 8/13/86; KRZ-0014, KRZ-0015

The Economic Regulatory Administration (ERA) filed a motion to amend the Proposed Remedial Order (PRO) issued to Telum, Inc. (Telum) in order to reclassify certain customers of Telum pursuant to new item/ new market rule at 10 CFR 212.111. In response, Telum filed a Motion to Dismiss the enforcement proceeding in its entirety.

In considering the ERA Motion, the OHA found that good cause existed for amending the PRO, and that no undue prejudice to Telum would result. With respect to Telum's Motion to Dismiss, the OHA found that having granted the ERA Motion, Telum's arguments were moot. Accordingly, the ERA's Motion to Amend was granted, and the firm's Motion to Dismiss was denied.

Implementation of Special Refund Procedures

Northeast Petroleum Industries, Inc., 8/15/86; HEF-0138

The DOE issued a Decision and Order implementing a plan for the distribution of $1,009,609.84 received as a result of a consent order with Northeast Petroleum Industries, Inc. (Northeast) on June 17, 1980. The DOE determined that the Northeast settlement fund should be distributed to both identified and as yet unidentified customers who purchased motor gasoline fuel from Northeast during the period May 1, 1974 through August 31, 1979. The specific information required in refund applications is set forth in the Decision.

Refund Applications

Eastern of New Jersey, Inc./Vornado, Inc., et al., 8/12/86; RF232-356 et al.

The DOE issued a Decision and Order concerning 14 Applications for Refund in the Eastern of New Jersey, Inc. special refund proceeding. The applicants were either end-users or resellers whose purchases of No. 4 residual fuel oil from Eastern rendered them eligible for a refund below the $5,000 small claims threshold. In its Decision, the DOE granted the 14 applications under the standards specified in *Eastern of New Jersey, Inc.*, 13 DOE ¶ 85,364 (1986). The refunds granted total $30,948, representing $19,267 in principal and $11,681 in interest.

Eastern of New Jersey, Inc./ Warner Theatre et al., 8/12/86; RF-232-58 et al.

The DOE issued a Decision and Order concerning 15 Applications for Refund in the Eastern of New Jersey, Inc. special refund proceeding. The applicants were either end-users or resellers whose purchases of No. 4 residual fuel oil from Eastern rendered them eligible for a refund below the $5,000 small claims threshold. In its Decision, the DOE granted the 15 applications under the standards specified in *Eastern of New Jersey, Inc.*, 13 DOE ¶ 85,364 (1986). The refunds granted total $10,022, representing $6,239 in principal and $3,783 in interest.

Eastern of New Jersey, Inc./ Wincenter Associates et al., 8/12/86; FR232-59-et al.

The DOE issued a Decision and Order concerning 22 Applications for Refund in the Eastern of New Jersey, Inc. special refund proceeding. The applicants were either end-users or resellers whose purchases of No. 4 residual fuel oil from Eastern rendered them eligible for a refund below the $5,000 small claims threshold. In its Decision, the DOE granted the 22 applications under the standards specified in *Eastern of New Jersey, Inc.*, 13 DOE ¶ 85,364 (1986). The refunds granted total $21,870, representing $13,616 in principal and $9,254 in interest.

Leonard E. Belcher, Inc./D. Petracone & Sons Co., Borsari Oil, Inc. and McCarthy Bros. Fuel Oil, 8/14/86; RF227-22, RF227-23, RF227-24

The DOE issued a Decision and Order concerning three Applications for Refund filed in the Leonard E. Belcher, Inc. special refund proceeding. All of the firms applied for refunds greater than $5,000. In accordance with the standards specified in *Leonard E. Belcher, Inc.*, 13 DOE ¶ 85,348 (1986), they were all required to demonstrate that they had cost banks greater than the amount of refunds due and that they were injured as a result of the overcharges. After examining the evidence and supporting documentation, the DOE concluded that D. Petracone & Sons. Co. and Borsari Oil, Inc. had costs banks and had been injured in many of the months during the consent order period. Since McCarthy

Bros. Fuel Oil could not demonstrate that it had been injured by an amount greater than the small claims threshold amount, its claim was limited to $5,000 plus interest. All three refunds granted total $28,592, representing $22,945 in principal and $5,647 interest.

Marathon Petroleum Co./Archbold Board of Education et al., 8/13/86; RF250-130 et al.

The DOE issued a Decision and Order concerning 30 Applications for Refund filed in the Marathon Petroleum Company refund proceeding. The applicants were all end-users of Marathon petroleum products. In its Decision, the DOE granted the 30 Applications under the standards specified in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986). The refunds granted total $6,322, representing $6,117 in principal and $205 in interest.

Mobil Oil Corp./A&M Trucking Co. et al., 8/11/86; RF225-1609 et al.

The Office of Hearings and Appeals granted 49 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users that had purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $2,426, representing $2,061 in principal and $365 in interest.

Mobil Oil Corp./Albert Motors, Inc. et al., 8/14/86; RF225-1195 et al.

The Office of Hearings and Appeals granted 44 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users that had purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $6,889, representing $5,843 in principal and $1,046 in interest.

Mobil Oil Corp./Alderman-Cave Milling and Grain Co. et al., 8/15/86; RF225-1472 et al.

The Office of Hearings and Appeals granted 48 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users that had purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $2,949, representing $2,506 in principal and $443 in interest.

Mobil Oil Corp./Anthony Archetti et al., 8/12/86; RF225-3414 et al.

The DOE issued a Decision granting 96 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the small claims presumption set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of refunds granted was $38,164, representing $32,368 in principal and $5,796 in interest.

Northwest Pipeline Corp./Westport Energy Corp., 8/14/86; RF116-6

Westport Energy Corporation (Westport) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Northwest Pipeline Corporation (Northwest). Westport demonstrated that it purchased 2,280,465 gallons of butane from Northwest during the consent order period. Using a volumetric methodology, the DOE determined that Westport's claim was below the presumption of injury threshold refund level of $5,000. The DOE therefore granted Westport a refund of $6,521.21, representing $4,426.38 in principal and $2,094.83 in interest. However, the DOE also concluded that it would not be appropriate to issue the refund directly to Westport at the present time since the firm is a respondent in an enforcement proceeding currently before the Office of Hearings and Appeals. Pending the outcome of the enforcement proceeding, the DOE determined that the refund should be deposited into a separate interest-bearing escrow account on behalf of Westport.

Quaker State Oil Refining Corp./Petrolec, Inc., et al., 8/15/86; RF213-003 et al.

The DOE issued a Decision and Order concerning 10 Applications for Refund filed by resellers of Quaker State Oil Refining Corporation refined petroleum products. Each applicant presented evidence that it purchased refined petroleum products from Quaker State during the consent order period and claimed a refund at or below the $5,000 small claims threshold level. According to the methodology set forth in *Quaker State Oil Refining Corp.*, 13 DOE ¶ 85,211 (1985), each applicant was found to be eligible for a refund from the Quaker State consent order fund based on the volume of its purchases claimed times the volumetric refund amount. The refunds approved totalled $50,941.

Union Texas Petroleum Corp./Hillman Oil Co. et al., 8/15/86; RF104-4 et al.

The DOE issued a Decision and Order concerning 6 Applications for Refund filed by resellers of petroleum products purchased from Union Texas Petroleum Corporation (UTP). Two of the applicants in this proceeding elected to apply under the presumption of injury for small claims set forth in *Union Texas Petroleum Corp.*, 12 DOE ¶ 85,166 (1985) *(UTP)*, and were granted refunds on that basis. Two other applicants applied for refunds in excess of the small claims threshold amount but failed to provide the evidence necessary to support such claims of injury. Accordingly, the DOE determined that these applicants should be granted the threshold refund amount on the basis of their documented purchase volumes of UTP product. Another applicant requested a refund in excess of the small claims threshold and, in support of its claim, provided cumulative and non-cumulative monthly records of its unrecouped increased product costs. The DOE determined that this information indicated that the applicant maintained adequate cost banks. In addition, the DOE found that the applicant made a sufficient showing that the prices it paid for UTP products were higher than those of other local suppliers in 13 months of the consent order period. Accordingly, the DOE approved a refund for the volumes which the applicant purchased during those months. However, the DOE denied the application of another firm which it determined had failed to make the requisite showing of injury necessary to support its claim in excess of the threshold amount. The refunds granted in this proceeding, all of which were computed using the volumetric methodology set forth in the *UTP* Decision, total $67,044.

Dismissals

The following submissions were dismissed:

Company name	Case No.
Downtown Gulf	RF40-725.
James C. Tarleton	RF213-142.
Ladd Marshall Gulf Service	RF40-3224.
Lost Gap Gulf Service	RF40-1526.
Public Service Company of Indiana, Inc.	RF21-12622, RF21-12623, RF21-12624
Mrs. Donald Schmidt	RF320-320, RF320-321, RF320-322.
Town & Country Gulf	RF40-723.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 19, 1986.

[FR Doc. 86-22271 Filed 10-1-86; 8:45am]

BILLING CODE 6450-01-M

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals for the Week of August 18 Through August 22, 1986

During the week of August 18 through August 22, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of

submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

John D. Morris; 8/22/86; KFA-0046

John D. Morris filed an Appeal from a denial by the Director of Personnel Management of the Bonneville Power Administration of a request for information which he had submitted under the Freedom of Information Act (FOIA). Mr. Morris had sought information concerning persons hired for the position of Power System Electrician by the agency. For each selected individual, he sought the name, raw numerical rating, amount of veterans preference, and whether the individual was handicapped, had prior civil service status or had relatives employed by the agency. In considering the Appeal, the DOE found that the Director had improperly withheld most of this material pursuant to Exemption 6 of the FOIA since the minimal privacy interest in this information did not outweigh the substantial public interest in knowing the qualifications of government employees. The DOE found, however, that information concerning whether the selected individuals were handicapped was properly withheld by the director since there is a greater privacy interest surrounding a person's physical condition and since that information was not directly relevant to an applicant's qualification for employment. Accordingly, the Appeal was granted in part.

Ivan Von Zuckerstein; 8 /20/86; KFA-0047

Ivan Von Zuckerstein filed an Appeal from a partial denial by the Manager of the DOE Chicago Operations Office of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Manager properly withheld portions of the requested memo under FOIA Exemption 5. Important issues that were considered in the Decision and Order were (i) whether a DOE memorandum that is addressed to a private contractor is an intra-agency communication, and (ii) whether DOE comments on a contractor's draft report to the DOE are pre-decisional.

Petition for Special Redress

Lucky Stores, Inc., and Research Fuels, Inc.; 8/22/86; HEG-0031, KEX-0017, KEX-0018

The Department of Energy (DOE) issued a Decision and Order concerning a Petition for Special Redress, a Motion for Show Cause Order and a consolidated case remanded to the Office of Hearings and Appeals (OHA) by the United States District Court for the Northern District of Texas. Each of the three matters before the DOE pertained to a seven year old dispute among Research Fuels, Inc. (RFI), Oasis Petroleum Corporation (Oasis) and Lucky Stores, Inc. (Lucky) concerning the proper application of the DOE allocation regulations to a series of agreements entered into in October 1978 by Oasis and RFI. By those agreements, RFI transferred 84 retail motor gasoline outlets to Oasis and assigned to Oasis its right to receive a supply of motor gasoline from Marathon Oil Company and Cities Service Company.

In considering the special redress petition, the show cause motion and the remanded case, the DOE first resolved a number of factual disputes pertaining to the October 1978 agreements. The DOE then outlined the regulatory rights and obligations of the parties to the October 1978 agreements as of the date of execution of those agreements. Next, the DOE set forth the status of the parties after the motor gasoline base period was revised on March 1, 1979. The DOE also determined the regulatory effect of a Three Party Agreement, a Substitute Supplier Agreement and an April 1979 Settlement Agreement on the rights and obligations of the parties to the October 1978 Agreements. Other matters which the DOE resolved concerned the authority of the DOE to establish an updated base period to determine base period volumes and supplier/purchaser relationships and the discretion of the DOE not to approve a three party agreement when the agreement is procedurally and substantively defective.

Of particular importance was the DOE's finding that Oasis improperly diverted motor gasoline to Apex Oil Company (Apex) in contravention of the spirit of the DOE allocation regulations. The DOE determined that Oasis, by selling motor gasoline to the non-allocated purchaser, Apex, deprived allocated purchasers of product. In reaching this determination, the DOE found that Oasis had failed to produce convincing evidence to rebut the evidence in the record which established a pattern of diversion from Oasis to Apex. Based on this finding, the DOE recommended that the district court sustain paragraph 7 of RFI's Counterclaim, Cross-Claim and Third Party Action.

The Motion for Show Cause Order considered by the DOE alleged that Oasis had made material misrepresentations before the agency. Even though the motion was predicated upon a finding of diversion by Oasis to Apex, the DOE determined that one of the requisite elements of misrepresentation was lacking. Therefore, the DOE decided to dismiss the show cause motion.

As a final matter, the DOE decided that in order to advise the district court as to the proper manner in which to distribute approximately $1,000,000 currently held in escrow by the court and any other monies that Oasis may be required to disgorge because of its diversion activities, it is necessary to conduct further fact-finding. The DOE outlined a claims process by which RFI, Lucky and 21 wholesale purchasers of RFI can submit evidence to OHA to claim a portion of the escrow monies and any other monies that Oasis may disgorge.

Request for Modification and/or Rescission

Charter Oil Co.; 8/22/86; BYR-0154

Charter Oil Company requested that the DOE amend the firm's entitlements purchase obligation for its fiscal year 1978 because the DOE had erroneously included the firm's foreign results in the calculation of its entitlements purchase obligation. In granting Charter's request, the DOE determined that the firm should be credited with a sale of entitlements worth $950,905. That amount was netted against the firm's outstanding entitlements dispense obligation of $5 million. Charter's net entitlements purchase obligation will not be enforced according to the policy set forth in 50 FR 1919 (1985).

Motion for Evidentiary Hearing

Intercoastal Operating Co. Inc., et al.; 8/20/86; KRH-0007

Intercoastal Operating Company Inc., 1.O.C. Production, Inc., and four working interest owners (IOC) filed a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firms and individuals on August 28, 1983. The PRO alleges that IOC improperly treated several of its properties as stripper well properties. In its Motion for Evidentiary Hearing, IOC requests a hearing in order to present evidence that one of these properties, the North Shongaloo Red Rock Pettit Unit (NSRRPU), was properly treated as a stripper well property. The DOE found that a genuine factual dispute exists regarding the property's average daily production of crude oil, and that presentation of testimony on that issue would substantially assist the DOE in resolving the dispute. Accordingly, the Motion for Evidentiary Hearing was granted to permit IOC to present evidence regarding the stripper well status of the NSRRPU.

Supplemental Order

M&M Minerals Corp., et al.; 8/19/86; KRX-0010

On August 19, 1986, the Office of Hearings and Appeals (OHA) issued a Supplemental Order to M&M Minerals Corporation which addressed the applicability of the royalty owner accountability exception (ROAE) to the crude oil producing property at issue in the underlying Remedial Order proceeding involving the firm, Case No. HRO-0018. OHA found that the respondents had satisfactorily met the necessary criteria to apply the ROAE to at least four premises. In particular, OHA determined that Mississippi was a non-apportionment state for purposes of this proceeding, and that the respondents were thus required to account separately to royalty owners for production from each of the premises sought to be treated as separate properties. Accordingly, the proceeding was remanded to the Economic Regulatory Administration to determine the amount of overcharges, if any, which occurred in view of OHA's determination that there were at least four properties.

Implementation of Special Refund Procedures

Arkansas Valley Petroleum; 8/19/96; HEF-0029

The DOE issued a Decision and Order which establishes procedures for the distribution of funds totalling $27,571 obtained as a result of a Consent Order entered into by the DOE and Arkansas Valley Petroleum. The Decision sets forth refund application procedures for customers who purchased motor gasoline from Arkansas Valley during the Consent Order period—March 1, 1979 through October 31, 1979. Specific information regarding the data to be included in Applications for Refund is discussed in the Decision.

Refund Applications

Coline Gasoline Corp./Nevada and Belridge Oil Co./Nevada ;8/20/86; RM2–28, RM8–27.

The DOE approved the Motions for Modification filed by the State of Nevada regarding two of its refund plans. Nevada will use its Coline funds, $714 including interest, and its Belridge funds, $590.60 including interest, to print and distribute the Alternative Energy Source Book, 1986 and the "How to Keep Your Car in Tune" brochure.

Farmers Union Central Exchange, Inc.; 8/19/86; (RR171–1)

Farmers Union Central Exchange, Inc. (Cenex) had received additional entitlements exception relief in an order issued on February 12, 1986. *Farmers Union Central Exchange, Inc.*, 14 DOE ¶ 85,019 (1986). That order approved interest on the relief from February 12. Cenex in this proceeding requested that interest accrue from October 2, 1985, the date on which similar relief was approved for 14 other firms. In denying the request, the OHA found that interest should accrue from the date on which the additional exception relief was approved.

Gulf Oil Corp./BF Goodrich Chemical Group; 8/18/86; (RF40–602, RF40–3087, RF40–3088)

The DOE issued a Decision and Order concerning three Applications for Refund filed by the BF Goodrich Chemical Group in the Gulf Oil Corporation special refund proceeding. BF Goodrich was an end-user of petroleum products purchased directly from Gulf. In its Decision, the DOE granted the three applications under the standards specified in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refund granted totals $250,238, representing $206,277 in principal and $43,961 in interest.

Gulf Oil Corp./Blue Bell Gulf et al.; 8/22/86; (RF40–102 et al.)

The DOE issued a Decision granting 17 Applications for Refund filed by retailers and resellers Of Gulf Oil Corporation products. All of the claimants applied for a refund based on the procedures outlined in Gulf Oil Corp., 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, all of the 17 claimants demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the amount of the refund claimed. The total amount of refund granted was $57,193, representing $47,146 in principal and $10,047 in interest.

Gulf Oil Corp./Mossman's Gulf Service et al.; 8/22/86; (RF40–02210 et al.)

In accordance with the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), the DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation escrow fund to 32 purchasers of Gulf refined petroleum products. The refunds to these firms totaled $46,972.

Gulf Oil Corp./Pat's Gulf Service Station; 8/19/86; (RF40–200)

The Office of Hearings and Appeals (OHA) issued a Decision and Order concerning an Application for Refund filed by Pat's Gulf Service Station, a retailer of Gulf petroleum products located in Darien, Connecticut. In its determination, the OHA found that Pat's had failed to make the requisite showing established in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), that it would not have been required to pass through to customers cost reductions equal to the refund amount claimed. Therefore, the Application for Refund filed by Pat's Gulf was denied.

Gulf Oil Corp/Pearland Gulf et al.; 8/22/86; (RF40–3256 et al)

In accordance with the procedures outlined in Gulf Oil Corp., 12 DOE ¶ 85,048 (1984), the DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation escrow account after examining the evidence and supporting documentation submitted by five purchasers of Gulf refined petroleum products. These refunds totaled $8,018.

Gulf Oil Corp./R & W Oil Products; 8/21/86; (RF40–3222)

The DOE issued a Decision and Order concerning an Application for Refund filed by R & W Oil Products., a retailer-reseller of Gulf Oil Corporation products. R & W, which previously received a refund in the Gulf special refund proceeding, informed DOE that it had purchased more product than it had indicated in its original refund application. R & W was therefore granted an additional refund of $2,261 in principal and $482 in interest.

Marathon Petroleum Co./Abercrombie, et al.; 8/20/86; (RF250–397 et al)

The DOE issued a Decision and Order concerning 38 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $35,430 in principal and $1,265 in interest.

Marathon Petroleum Co./Acree Oil Co., et al.; 8/20/86; (F250–306 et al)

The DOE issued a Decision and Order concerning 37 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $27,941 in principal and $972 in interest.

Marathon Petroleum Co./Airport Marathon, et al.; 8/20/86; (RF250–213 et al)

The DOE issued a Decision and Order concerning 60 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $44,009 in principal and $1,585 in interest.

Marathon Petroleum Co./Alexander's 12 and Southfield, et al.; 8/20/86; (RF250–47 et al)

The DOE issued a Decision and Order concerning 51 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refund approved in this Decision is $41,573 in principal and $1,499 in interest.

Marathon Petroleum Co./Bell's Marathon Inc., et al., 8/21/86; RF250–516 et al.

The DOE issued a Decision and Order concerning 44 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision was $39,437 in principal and $1,471 in interest.

Marathon Petroleum Co./Boron Oil Co., et al., 8/21/86; RF150–476 et al.

The DOE issued a Decision and Order concerning 41 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $29,597 in principal and $1,196 in interest.

Marathon Petroleum Co./Patriot Petroleum Dist., Inc., 8/18/86; RF250–347

The DOE issued a Decision and Order concerning an Application for Refund filed by Patriot Petroleum Dist., Inc., a purchaser and reseller of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Under the refund procedures established for Marathon applicants, Patriot's purchase volume corresponded to a volumetric refund amount exceeding the $5,000 small claims refund level. However, because the firm did not attempt to demonstrate that it absorbed the alleged Marathon overcharges, Patriot was eligible for a refund of either $5,000 or 35% of its volumetric refund amount. In this case, 35% of the firms volumetric refund amount was less than the small claims amount. Accordingly, the DOE granted Patriot a refund of $5,000 in principal and $183 in interest.

Marathon Petroleum Co./"T" Grocery and Service Station, et al., 8/21/86; RF250–420 et al.

The DOE issued a Decision and Order concerning 35 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into

with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $22,748 in principal and $845 in interest.

Mitchell Energy Corp./Warren Petroleum Co., E.I. du Pont de Nemours and Co., 8/18/86; RF50-2, RF50-3

Warren Petroleum Company filed an Application for Refund, seeking a portion of funds remitted by Mitchell Energy Corporation, pursuant to a consent order that Mitchell entered into with the DOE. Warren purchased 1,019,104,679 gallons of natural gas liquid products from Mitchell during the consent order period. The DOE found that for a major portion of the NGLPs that Warren purchased, Warren was charged prices above the average market price levels. As a result, Warren incurred a substantial excess cost. Considering the competitive disadvantage that Warren suffered from its purchases from Mitchell, the DOE granted Warren a refund of $703,000 plus accrued interest, which equals the share of the consent order fund allocated to the firm on the purchase volume basis.

E. I. Du Pont de Nemours & Co. also filed an Application for Refund in the Mitchell refund proceeding on the basis that it purchased the Mitchell products from Warren. Since the DOE had determined that Warren was unable to pass through the alleged overcharges, it denied Du Pont's refund request.

Mobil Oil Corp./Andrew Roman et al., 8/20/86; RF225-1898 et al.

The DOE issued a Decision granting 103 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $32,873 ($27,886 principal plus $4,987 interest).

Mobil Oil Corp./Bost Chevrolet Inc. et al., 8/21/86; RF225-2813 et al.

The Office of Hearings and Appeals granted 48 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount pursuant to the procedures adopted in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $3,556, consisting of $3,018 in principal plus $538 in interest.

Mobil Oil Corp./Bill Rogers Flying Service et al., 8/19/86; RF225-2423 et al.

The Office of Hearings and Appeals granted 47 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount pursuant to the procedures adopted in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $4,738, consisting of $4,018 in principal plus $720 in interest.

Mobil Oil Corp./Bob Hayes Chevrolet Co. et al., 8/18/86; RF225-2031 et al.

The Office of Hearings and Appeals granted 49 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount pursuant to the procedures adopted in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $1,942, consisting of $1,649 in principal plus $293 in interest.

Mobil Oil Corp./Robert F. Scott Co., Inc., et al., 8/20/86; RF225-4254 et al.

The Department of Energy issued a Decision and Order granting refunds from the Mobil Oil Corporation deposit fund escrow account to 54 purchasers of Mobil motor gasoline. The refund approved for these firms totaled $18,120, including accrued interest. All of the refund applicants are retailers of Mobil motor gasoline who elected to apply for refund under the applicable level-of-distribution presumption outlined in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985).

Northwest Pipeline Corp./Chevron U.S.A., Inc., 8/18/86; RF116-5

Chevron U.S.A., Inc. (Chevron) filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Northwest Pipeline Corporation (Northwest). The DOE found that Chevron demonstrated that it purchased Northwest butane during the consent order period and that Chevron was injured by those purchases. Using a three-step competitive disadvantage methodology, the DOE calculated a range of Chevron's competitive disadvantage. A refund of $36,197.04 was found to equitably compensate Chevron for any injury experienced as a result of Chevron's alleged overcharges. In addition, the firm received accrued interest of $17,130.00 for a total refund of $53,327.04.

Sage Creek Refining Co., 8/18/86; RF171-36

On June 19, 1986, the OHA issued an order approving $57,019 in additional entitlements exception relief for Saga Creek Refining Co. Pursuant to policies established in *Amber Refining, Inc.*, 12 DOE ¶ 85,217 (1986), the DOE directed payment of that amount from the DOE Deposit Fund Escrow Account.

Tenneco Oil Co./Narragansett Electric Co., 8/20/86; RF7-136

The Department of Energy issued a Decision and Order granting a refund to Narragansett Electric Company from the Tenneco Oil Company deposit fund escrow account. Narragansett was an end-user of Tenneco No. 6 fuel oil. The refund granted to Narragansett totaled $436, including accrued interest.

Dismissals

The following submissions were dismissed.

Name	Case No.
Holly Mobil	RF225-1774.
Small's LP Gas Co.	RF237-6.
Ray Wrycha	RF213-35.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

September 16, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-22276 Filed 10-1-86; 8:45 am]

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Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals for the Week of August 25 Through August 29, 1986

During the week of August 25 through August 29, 1986, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Lone Star Oil & Chemical Co. and Michael A. McAlister; 8/26/86 HRO-0185

Lone Star Oil and Chemical Company and Michael A. McAlister (Lone Star) objected to a Proposed Remedial Order which the Economic Regulatory Administration issued to the firm on July 15, 1983. In the Proposed Remedial Order (PRO), the ERA found that Lone Star received illegal revenues totalling $140,146.25 as a result of reselling crude oil at prices in excess of those permitted by 10 CFR 212.186 during the period June 1978 through January 1980. After considering Lone Star's Statement of Objections, the DOE concluded that the PRO should be issued as a final Decision and Order of the DOE. An important issue discussed in this Decision and Order was whether a reseller's assisting a refinery to obtain additional benefits under the entitlement program constituted a traditional and historical reseller activity.

Requests for Exception

Beard Oil and Supply, 8/25/86; KEE-0017

Beard Oil and Supply filed an Application for Exception from the requirement that the firm file Form EIA–782B, the Resellers'/Retailers' Monthly Petroleum Product Sales Report. The DOE found that Beard had not shown that the burden which completing the form placed upon the firm outweighed the benefit to the nation provided by the EIA–782B survey results. Accordingly, exception relief was denied.

Cummings Transfer Co., 8/26/86; KEE–0044

Cummings Transfer Company filed an Application for Exception from its obligation to submit Form EIA–194, entitled "Monthly Alternate Fuel/Incremental Price Monitoring Report," and Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the applicant's request, the DOE found that the firm had failed to demonstrate that it was particularly adversely affected by the requirement that it file either Form EIA–194 or Form EIA–782B. Accordingly, exception relief was denied.

Motion for Discovery

Tonkawa Refining Co., 8/28/86; KRD–0005, KRH–0005

Tonkawa Refining Company (Tonkawa) filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) issued to the firm on May 31, 1985. In the discovery motion, Tonkawa sought to depose unnamed DOE auditors and attorneys who conducted the audit of Tonkawa, and unnamed officers and executives from various companies that did business with Tonkawa during the audit period. The DOE denied this motion, since the firm failed to identify the information which was sought or the issues to be explored in the depositions, and only offered a generalized assertion of relevance and need for the information. In considering Tonkawa's Amended Motion for Discovery, the DOE directed the ERA to provide the firm with relevant audit workpapers and an explanation of the methodology used in calculating the firm's crude oil receipts during the audit period. Finally, the DOE denied Tonkawa's Motion for Evidentiary Hearing since the firm failed to identify any witnesses whose testimony was required and did not present specific reasons why such testimony was necessary. Tonkawa also failed to explain why its asserted positions could be established effectively only through direct questioning and cross examination rather than by written submission, documentary evidence and oral argument.

Interlocutory Order

Texaco Inc., 8/28/86; KRZ–0043.

Texaco Inc. (Texaco) filed a petition for review of a Special Report Order (SRO) that was issued to Texaco by the Deputy Director for Economic Analysis, Office of Hearings and Appeals, on July 9, 1986. *Texaco Inc.*, 14 DOE ¶ _____, Case No. KRX–0016 (July 9, 1986). In its petition for review, Texaco argued that the SRO should be rescinded since (i) Texaco was improperly denied an administrative appeal of the matters concerned by the SRO, (ii) issuance of the SRO improperly involved the Office of Hearings and Appeals (OHA) in investigatory functions, (iii) the Economic Regulatory Administration had not established a *prima facie* case with respect to the matters concerned by the SRO, and (iv) the SRO prematurely imposed enormous burdens on Texaco. In considering the petition for review OHA determined that Texaco's contentions were without legal and factual basis. Accordingly, OHA upheld the SRO. OHA determined, however, that the SRO should be modified to afford Texaco a 60-day extension of time for compliance with the SRO reporting requirements.

Refund Applications

Conoco Inc./Goy Oil, Inc. et al., 8/25/86; RF220–37 et al.

The DOE issued a Decision and Order concerning fifty-five Applications for Refund filed by Goy Oil, Inc. *et al.* The applicants, each of whom had purchased refined petroleum products from Conoco Inc., sought a portion of the settlement fund obtained by the DOE through a consent order with Conoco, and applied for refunds based upon the procedures for filing small claims outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). After examining the applications, the DOE concluded that each of the fifty-five firms should receive a refund, based on its volumetric per gallon refund amount. The total amount of refunds granted was $92,676.

Conoco Inc./Kingsport Oil, Corp., et al., 8/28/86; RF220–164 et al.

The DOE issued a Decision and Order concerning fifty Applications for Refund filed by Kingsport Oil Corporation, *et al.* The applicants, each of whom had purchased refined petroleum products from Conoco Inc., sought a portion of the settlement fund obtained by the DOE through a consent order with Conoco, and applied for refunds based upon the procedures for filing small claims outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). After examining the applications, the DOE concluded that each of the fifty firms should receive a refund, based on its volumetric per gallon refund amount. The total amount of refunds granted was $70,343.

Crystal Oil Co., System Fuels, Inc. et al., 8/27/86; RF233–010 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by two resellers and two end-users of Crystal Oil Company refined petroleum products. Each applicant presented evidence that it purchased refined petroleum products from Crystal during the Crystal consent order period. The two reseller claims were based upon purchases which entitled them to refunds below the $5,000 threshold amounts. According to the methodology set forth in *Crystal Oil Co.*, 13 DOE ¶ 85,381 (1986), each applicant was found to be eligible for a refund from the Crystal consent order fund based upon the volume of its purchases times the volumetric refund amount. The refunds approved in the Decision total $15,543.

E.B. Lynn Oil Co./Hill Oil of Pennsylvania et al., 8/26/86; RF246–1 et al.

The DOE issued a Decision and Order concerning eight Applications for Refund in the E.B. Lynn Oil Company special refund proceeding. The applicants were all resellers of Lynn motor gasoline whose purchases from the firm entitled them to a refund below the $5,000 small claims threshold. In its Decision, the DOE granted the eight Applications under the standards specified in *E.B. Lynn Oil Co.*, 14 DOE ¶ 85,228 (1986). The refunds granted total $20,744, representing $15,507 in principal and $5,237 in interest.

Gulf Oil Corp., Sullivan's Gulf Station, et al.; 8/28/86; (RF40–369, et al.)

The DOE issued a Decision and Order concerning three Applications for Refund from the Gulf Oil Corporation escrow fund. All of the applicants were retailers of Gulf petroleum products during the period covered by the Gulf consent order, but had submitted only estimates of their purchases from Gulf in support of their claims. In its determination, the DOE found that none of the applicants had sufficiently explained the estimated purchase figures to allow the DOE to determine whether the estimates were reasonable approximations of the purchases each was likely to have made during the period. Since actual purchase data may become available at a later date, rather than denying the claims, the applications were dismissed without prejudice to a refiling at a later date.

Howell Oil Corp. and Quintana Refining Co./Conoco, Inc. et al., 8/27/86; (RF245–002 et al.)

The DOE issued a Decision and Order concerning two refiners and four end-users of Howell/Quintana refined petroleum products. Each applicant presented evidence that it purchased refined petroleum products from Howell/Quintana during the period covered by the consent order entered into by Howell Oil Corporation and Quintana Refining Company with the DOE. The refiners limited their claims to the $5,000 small claims threshold amount. According to the methodology set forth in *Howell Oil Corp. and Quintana Refining Co.*, 14 DOE ¶ 85,129 (1986), each applicant was found to be eligible for a refund from the Howell/Quintana consent order fund based on the volume of its eligible purchases times the volumetric refund amount. The refunds approved in the Decision total $71,721.

Howell Oil Corp. and Quintana Refining Co./Wellen Oil, Inc./Defense Logistics Agency and Fine Petroleum Co./Defense Logistics Agency; 8/29/86; (RF245–4, RF247–1, RF429–1)

The DOE issued a Decision and Order concerning three Applications for Refund filed by the Defense Logistics Agency, an end-user of Howell/Quintana, Wellen Oil, and Fine Petroleum Co. refined petroleum products. The DLA presented evidence that it purchased refined petroleum products from Howell/Qqintana, Wellen, and Fine during the respective period covered by the consent orders entered into by the DOE with the three firms. According to the methodology set forth in *Howell Oil Corp. and Quintana Refining Co.*, 14 DOE ¶ 85,129 (1986); *Wellen Oil, Inc.*, 14 DOE ¶ 85,118 (1986); and *Fine Petroleum Co.*, 14 DOE ¶ 85,120 (1986), the DLA was found to be eligible for a refund from the respective consent order funds based on its purchase volumes times the applicable

volumetric refund amounts. The refunds approved in the Decision total $651,423.

Inland U.S.A., Inc./Ray Oil Company; 8/28/86; (RF176-4)

The DOE issued a Decision and Order concerning an Application for Refund filed in the Inland, U.S.A. special refund proceeding. The applicant, Ray Oil Company, was a reseller of Inland motor gasoline that made spot purchases from Inland during the consent order period. The DOE determined that the firm had overcome the spot purchaser presumption with respect to a portion of its Inland purchases and hence was entitled to a refund on those purchases. The refunds granted total $979, representing in principal and $323 in interest.

MAPCO, IN./Dresselhaus Thermogas Service; 8/26/86; (RF108-14)

Dresselhaus Thermogas Service filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with MAPCO, inc. The firm claimed a refund on the basis of its purchase of 2,777,778 gallons of LPG from MAPCO during the consent order period. The DOE determined that Dresselhaus Thermogas Service's claim was at the presumption of injury threshold level of $5,000. The DOE therefore granted DTS a refund of $5,000 plus accrued interest of $3,967.95 for a total refund of $8,967.95.

Marathon Petroleum Co/Arlie's Marathon Service, et al.; 8/25/86; (RF250-258 ET AL)

The DOE issued a Decision and Order concerning 51 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $31,116 in principal and $1,123 in interest.

Mobil Oil Corp./A. L. Mark et al.; 8/25/86; RF225-4061 et al)

The DOE issued a Decision and Order granting refunds from the Mobil Oil Corporation escrow fund to 52 retailers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $21,045 ($17,843 principal plus $3,202 interest).

Mobil Oil Corp./A. Martini Coal & Oil Co., Inc. et al.; 8/29/86; RF225-1775 et al).

The DOE issued a Decision granting 64 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.* 13 DOE ¶ 85,339 (1985). The DOE granted refunds totaling $22,779 ($19,285 principal plus $3,494 interest).

Maratnon Petroleum Co./A. T. Williams Oil Co., Inc. et al.; 8/26/86; (RF250-604 et al)

The DOE issued a Decision and Order concerning 41 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $34,886 in principal and $1,413 in interest.

Mobil Oil Corp./A. Weldon Bailey et al.; 8/25/86; (RF225-2547 et al)

The DOE issued a Decision granting 47 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $21,534 ($18,267 principal plus $3,267 interest).

Mobil Oil Corp./Abby's Mobil et al.; 8/29/86; (RF225-3849 et al).

The DOE issued a Decision and Order granting 48 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $21,573 ($18,258 principal plus $3,315 interest).

Mobil Oil Corp./American Flange and Manufacturing Co., Inc. et al.; 8/28/86; (RF225-3238 et al.).

The DOE granted 49 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount in accordance with the presumptions set forth in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $9,238, representing $7,820 in principal and $1,418 in interest.

Mobil Oil Corp., Borg-Warner Corp. et al.; 8/27/86; (RF225-3152 et al)

The Office of Hearings and Appeals granted 46 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to the amount of their documented purchase volumes times 100 percent of the per gallon volumetric refund amount in accordance with the procedures established in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refund granted was $2,684, representing $2,273 in principal and $411 in interest.

Mobil Oil Corp., David J. Minkel et al.; 8/26/86; (RF225-5576 et al)

The DOE issued a Decision and Order granting refunds from the Mobil Oil Corporation escrow account to 31 retailers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $14,545 ($12,338 principal plus $2,207 interest).

OKC Corp./Missouri Self Service Gas Co.; 8/29/86; (RF13-44)

The DOE issued a Decision and Order concerning a submission filed by Missouri Self Service Gas Company (MSS), in which MSS sought to obtain a refund granted it from the settlement fund obtained by the DOE through a consent order entered into with OKC Corporation (OKC). In *OKC Corp./Missouri Self Service Gas Co.*, 14 DOE ¶ 85,201 (1986), the DOE granted MSS a refund of $22,491 from the OKC escrow account. However, rather than remit the refund to MSS, the DOE placed the refund into a separate, interest bearing account pending a determination by the DOE regarding the appropriateness of applying the firm's OKC refund as a partial offset against an inadvertent overpayment which MSS received in another refund proceeding involving Panhandle Eastern Pipeline Company (Panhandle). In *Panhandle Eastern Pipeline Co./Missouri Self Service Gas Co.*, 11 DOE ¶ 85,213 (1983), MSS was ordered by the DOE to return the Panhandle overpayment. MSS defended its refusal to comply with the DOE repayment directive by claiming that the Panhandle refund had been disbursed to MSS shareholders, while MSS itself was without assets. After considering the arguments advanced by MSS in favor of releasing the OKC refund to MSS, the DOE determined that MSS failed to show cause why its OKC refund should not be applied as a partial repayment of its obligation to the Panhandle escrow account. Accordingly, the DOE's Office of the Controller was directed to transfer the MSS refund into the Panhandle escrow account.

Pride Refining, Inc./West Texas Utilities; 8/29/86; (RF235-19)

The DOE issued a Decision and Order concerning an Application for Refund filed in the Pride Refining, Inc. special refund proceeding. The applicant, West Texas Utilities Co., was an end-user of Pride products who had received a refund in *Pride/L&L, Inc.*, 14 DOE ¶ 85,385 (1986). However, its purchase volumes in that Decision were listed incorrectly and the firm received a refund of less than that to which it was entitled. Accordingly, West Texas Utilities was granted an additional refund of $39,862, representing $31,352 in principal and $8,510 in interest. In its Decision, the DOE granted the Application under the standards specified in *Pride Refining Co.*, 13 DOE ¶ 85,367 (1986).

Quaker State Oil Refining Corp./Bridgeport Gas, Inc.; 8/28/86; (RF213-0164, RF213-0210)

The DOE issued a Decision and Order concerning two separate Applications for Refund in the Quaker State Oil Refining Corp. special refund proceeding filed in connection with Bridgeport Gas, Inc.'s purchases of Quaker State motor gasoline. In determining which applicant was the proper recipient of Bridgeport's refund, the DOE found that, absent special circumstances, the impact of Quaker State's pricing practices would have been felt by the firm's owner at the time of those alleged overcharges. The owner at the time of the overcharges, however, was unable to document its purchase volumes because all records had been transferred to the new owner. The DOE therefore used the current owner's statement of volumes in calculating the refund approved to the previous owner in this Decision. According to the methodology set forth in *Quaker State Oil Refining Corp.*, 13 DOE ¶ 85,211 (1985), Bridgeport was found to be eligible for a refund from the Quaker State consent order fund based on the volume of its purchases times the volumetric refund amount. The refund approved totaled $6,065.

Dismissals

The following submissions were dismissed:

Company name	Case No.
Keystone Fuel Oil Company	KCX-0009
Morris Chevrolet-Oldsmobile	RF213-110
Total Petroleum, Inc.	HRO-0295

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

September 19, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-22272 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Proposed Decision and Order by the Office of Hearings and Appeals for the Period of August 11 Through August 29, 1986

During the period of August 11 and throught August 29, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception procedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 16, 1986.

Wondrack, Distributing, Inc.; Tri-Cities, Washington; KEE-0053.

Wondrack Distributing, Inc. filed an Application for Exception from the requirement to file Form EIA-782B. The exception request, if granted, would relieve Wondrack from its monthly reporting obligation. On August 26, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-22275 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Proposed Decision and Order By the Office of Hearings and Appeals for the Period of September 1 Through September 12, 1986

During the period of September 1 through September 12, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

September 19, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Mclain Truck Service, Inc.; Monahans, TX; KEE-0028, Reporting Req'MTS

McLain Truck Service, Inc. filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Resellers'/ Retailers' Monthly Petroleum Sales Report," Form EIA-821, "Annual Fuel Oil and Kerosene Sales Report," and Form EIA-863, "Etroleum Product Sales Identification Survey." After considering the application, on September 11, 1986, the DOE issued a Proposed Decision and Order which tentatively determined that the relief be denied in part and granted in part.

[FR Doc. 86-22274 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

Notice of Cases Filed With the Office of Hearings and Appeals for the Week of August 29 Through September 5, 1986

During the Week of August 29 through September 5, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

September 17, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of August 29 through Sept. 5, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 2, 1986	Brooks Oil Co. Inc., Middlesboro, KY	KEE-0069	Exception to the reporting requirements. If granted: Brooks Oil Co., Inc. would no longer be required to file forms EIA-782B "Reseller/Retailer's Monthly Petroleum Products Sales Report" and EIA-821 "Annual Fuel Oil and Kerosene Sales Report."
Do.	Butler Bros. Oil Company, Inc., Westerly, RI	KEE-0068	Exception to the reporting requirements. If granted: Butler Bros. Oil Company, Inc. would no longer be required to file form EIA-782B "Reseller/Retailer's Monthly Petroleum Product Sales Report."
Sept. 3, 1986	Research Fuels, Inc., Washington, DC	KER-0013	Request for modification/rescission. If granted: The August 22, 1986, Decision and Order issued to Research Fuels, Inc. and Lucky Stores, Inc. (Case Nos. HEG-0031, KEX-0017 and KEX-0018) would be modified regarding the funds held in escrow by the United States District Court for the Northern District of Texas.

Date received	Name of refund proceeding/ Name of refund applicant	Case Number
9/2/86	Erie Sand Steamship Company	RF271-1
9/2/86	Everette Truck Line, Inc.	RF270-2
9/4/86	Union Texas/Glenn B. Eddy & Sons, Inc.	RF140-47
9/4/86	Aminoil/Darch Bottle Gas and Appliance.	RF139-157
9/4/86	Guli/Fred Wambaugh	RF259-2
9/4/86	Farstad/Ahmann's Service Center.	RF261-2
9/4/86	Farstad/Don Moe Motors, Inc.	RF261-1
9/4/86	Quaker State/Madalyst Properties.	RF213-213
9/4/86	Jersey Coast Freight Lines	RF270-5
9/4/86	Bilkays Express Company	RF270-4
9/3/86	Rocky Ford Moving Vans, Inc.	RF270-3
9/3/86	OKC Corp/Jones Oil Company	RF13-45
8/29/86	Gulf Refund Applications	RF40-3287-RF40-3361
8/29/86	Marathon Refund Applications	RF250-1199-RF250-1254
8/29/86	Mobil Refund Application	RF225-10142-RF225-10210

[FR Doc. 86-22273 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $353 million (including accrued interest) obtained from 28 firms. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 F.R. 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate by November 3, 1986 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to Case No. KEF-0049.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director; Roger Klurfeld, Assistant Director; Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2094 (Mann) or (202) 252-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute alleged crude oil violation amounts obtained from 28 firms. The firms remitted monies to the DOE to settle possible violations of DOE regulations. The firms' payments are being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has tentatively decided that distribution of the monies received from these firms will be governed by the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 F.R. 27899 (August 4, 1986). That policy states that alleged crude oil violation amounts will be divided among the states, the federal government, and eligible purchasers of crude oil and refined products.

Under the plan we are proposing, refunds to the states would be distributed in proportion to each state's consumption of petroleum products. Refunds to eligible purchasers would be based on the number of gallons of crude oil or refined products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW. Washington, DC 20585.

Dated: September 23, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 23, 1986.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Cases: A. Tarricone, Inc. and Those Listed in Appendix A

Date of Filing: August 21, 1986
Case Numbers: KEF-0049 and Those Listed in Appendix A

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations.

On August 21, 1986, the ERA filed 28 Petitions for the Implementation of Special Refund Procedures with respect to overcharge funds obtained from firms whose names and OHA case numbers appear in Appendix A. These refund proceedings all involve alleged crude oil violations, and the funds involved totalled $353,002,725.24 including interest as of August 31, 1986. This Decision and Order proposes procedures by which the Office of Hearings and Appeals will distribute these funds. Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute funds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of alleged or adjudicated violations or to ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

We have considered ERA's requests to implement Subpart V procedures with respect to the monies received from the 28 firms and have determined that such procedures are appropriate. Accordingly, we will grant ERA's requests.

These cases are subject to the Department of Energy's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges issued on July 28, 1986, 51 FR 27899 (August 4, 1986) (hereinafter referred to as the "MSRP"). The MSRP announced that the DOE will employ a refund process for restitution of alleged crude oil violation amounts (held in escrow by the DOE or received in the future) using the special refund procedures codified at 10 CFR Part 205, Subpart V. Under that process, OHA will accept and process refund applications from persons who claim they were injured by alleged crude oil violations. Up to 20 percent of the alleged crude oil violation amounts will be reserved to satisfy valid claims. The MSRP calls for the remaining 80 percent of the funds to be disbursed to the state and federal governments for indirect restitution. In addition, after all valid claims are paid, unclaimed funds from the claims reserve will be divided equally between the state governments and the federal government. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

Under the MSRP, the OHA will institute a claims process for the $353 million involved in these proceedings. We have decided to reserve the full 20 percent of the alleged crude oil violation amounts for direct restitution to claimants. The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used to evaluate claims based on alleged refined product overcharges pursuant to 10 CFR Part 205, Subpart V. *Mountain Fuel Supply Co.*, 14 DOE ¶ ——, No. KEF-0025 (September 11, 1986). As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured by the alleged violations (i.e. that they did not pass on alleged overcharges to their own customers). The standards for showing injury which the OHA has developed in analyzing non-crude oil claims will also apply to claims based on alleged crude oil violations. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986). Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the money available in each subaccount by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Appendix A shows the volumetric refund amount for each of these 28 proceedings as of August 31, 1986. The total volumetric amount for these proceedings is $0.0001746676.

We propose that the remaining 80 percent of the funds—$282,402,180.19—be immediately disbursed to the state and federal governments for indirect restitution. We propose to direct the DOE's Office of the Controller to segregate this amount and distribute $70,600,545.05 plus appropriate interest to the States and $211,801,635.14 plus appropriate interest to the federal government.[1] Appendix B to this Decision lists the share (ratio) of the funds in the state account which each state will receive if these procedures are adopted.

We should note that in an order implementing the MSRP, 51 FR 29,689 (August 20, 1986), the OHA solicited comments and objections regarding the proper application of the MSRP to all present and future OHA refund proceedings involving alleged crude oil violations. Comments and objections must be filed no later than September 19, 1986. Among the matters we expect these comments to address are the scope of the release of claims delivered by firms accepting funds under the Settlement Agreement, and the nature of the proof of injury that is required in the crude oil claims process.

It is therefore ordered that:

The refund amounts remitted pursuant to consent orders by the firms identified in Appendix A to this Decision and Order shall be distributed in accordance with the foregoing Decision.

Name of firm	OHA case No.	Consent order No.	Total equity as of Aug. 31, 1986	Volumetric refund
A Tarricone Inc	KEF-0049	N00M90025Z	$285,669.79	0.0000001414
Alliance Oil & Refining Co	KEF-0050	650X00300Z	2,591,746.64	.0000012824
Atlantic Richfield Company	KEF-0051	RARE00301Z	325,754,371.60	.000161185
Avant Petroleum, Inc	KEF-0052	6C0X00284Z	1,717,995.28	.0000008501
Bass Enterprises Production Co	KEF-0053	650C00376Z	1,733,973.53	.000000858
Coastal Petroleum Refiners	KEF-0054	6C0X00305Z	541,211.91	.0000002678
Condor Operating company	KEF-0055	670C00233Z	286,492.25	.0000001418
Corpening Interprises	KEF-0056	600C00105Z	114,206.96	.0000000565
Crestmont Oil & Gas, C/Ooxypetr	KEF-0058	950C00057Z	260,247.77	.0000001288
Dorchester Exploration Inc	KEF-0059	6C0C00676Z	283,929.26	.0000001405
Double U Oil Co./J.E. Guenther	KEF-0060	610C00467Z	262,789.49	.00000013
Edwin L. Cook & Berry R. Cox	KEF-0057	650C00366Z	1,240,729.03	.0000006139
Enstar Corporation	KEF-0061	6C0C00257Z	3,177,941.29	.0000015725
Franks Petroleum Inc	KEF-0062	650C00375Z	362,257.52	.0000001792

[1] On July 7, 1986, the United States District Court for the District of Kansas approved the Settlement Agreement in the Department of Energy Stripper Well Exemption Litigation, MDL No. 378. That Settlement Agreement resolves a number of matters, including the distribution of funds collected by the Court and the distribution of alleged crude oil violation amounts collected by DOE in other cases. For amounts transferred by OHA to the state and federal governments in excess of $100 million, the Settlement Agreement provides that of the next $400 million DOE shall receive 75 percent and the States shall receive 25 percent. Settlement Agreement, Paragraph II.B.3.c.ii. On August 4, 1986, the OHA transferred $104,061,950.61 to the state and federal governments. Stripper Well Exemption Litigation, 14 DOE ¶ 85,382 (1986).

Name of firm	OHA case No.	Consent order No.	Total equity as of Aug. 31, 1986	Volumetric refund
IU International & Texfel Petr	KEF-0064	960C00025Z	1,028,397.64	.0000005069
Jones Drilling Corporation	KEF-0066	660C00494Z	368,137.04	.0000001822
J.M. Petroleum Corporation	KEF-0065	6A0X00318Z	308,780.65	.0000001528
Kilroy Company of Texas	KEF-0067	650C00368Z	190,714.20	.0000000944
Lunday Thargard Oil Corp	KEF-0068	N00S98076Z	3,620,658.16	.0000017915
Mar Low Corporation	KEF-0069	640X00254Z	187,084.66	.0000000926
McMoran Oil & Gas Co	KEF-0070	650C00373Z	397,235.11	.0000001966
Minro Oil Company	KEF-0071	650X00351Z	2,928,707.56	.0000014491
Oxy Petroleum	KEF-0072	920C00032Z	2,912,895.42	.0000014413
P.L. Hirschburg/United Ind Oil	KEF-0063	N00S90478Z	77,330.42	.0000000383
Sabine Corporation	KEF-0073	650C00370Z	193,170.80	.0000000956
Southerwestern Refining Co. Inc	KEF-0075	888S00226Z	510,227.73	.0000002525
Texakota, Inc	KEF-0076	6C0C00255Z	329,957.78	.0000001633
Texas Pacific Oil Company, Inc	KEF-0077	6A0C00257Z	1,335,865.75	.000000661
Total			353,002,725.24	.0001746676
Twenty percent for direct restitution			70,600,545.05	
Eighty Percent for indirect restitution			282,402,180.19	
For distribution to States			70,600,545.05	
For distribution to Federal Gov't			211,801,635.14	

CASE NO. KEF-0049—APPENDIX B

[Calculation of ratios for distribution to States and territories—M.D.L. 378]

State	Consumption	Ratio
Alabama	626,803,520	0.01534512450
Alaska	158,047,980	.00386926023
American Samoa	7,275,000	.00017810331
Arizona	418,994,930	.01025764719
Arkansas	519,811,670	.01272579770
California	3,739,318,300	.09154432453
Colorado	439,201,380	.01075233249
Connecticut	693,689,220	.01698259040
Delaware	193,932,730	.00474777469
District of Columbia	97,574,660	.00238877935
Florida	1,887,260,600	.04620307312
Georgia	909,619,880	.02226890861
Guam	60,196,000	.00147369165
Hawaii	280,655,260	.00687087703
Idaho	167,643,790	.00410418057
Illinois	1,876,159,080	.04593129065
Indiana	1,006,156,560	.02463227660
Iowa	532,229,530	.01302980621
Kansas	457,905,310	.01121023378
Kentucky	523,601,010	.01281856663
Louisiana	971,591,210	.02378606310
Maine	300,279,730	.00735131456
Maryland	731,363,020	.01790490359
Massachusetts	1,398,309,100	.03423278036
Michigan	1,391,772,090	.03407274419
Minnesota	708,814,590	.01735288297
Mississippi	557,786,510	.01365548081
Missouri	806,514,320	.01974472423
Montana	184,682,510	.00452621123
Nebraska	301,217,700	.00737427752
Nevada	165,454,200	.00405057600
New Hampshire	190,375,330	.00466068401
New Jersey	1,507,862,710	.03691482302
New Mexico	267,574,460	.00655063871
New York	3,162,994,520	.07743502253
No. Mariana Islands	3,763,000	.00009212409
North Carolina	916,800,700	.02244470625
North Dakota	149,717,090	.00366530709
Ohio	1,534,904,170	.03757684000
Oklahoma	504,488,400	.01235066023
Oregon	404,894,790	.00991245364
Pennsylvania	1,901,863,900	.04656058461
Puerto Rico	389,132,000	.00952655624
Rhode Island	161,953,570	.00396487514
South Carolina	486,978,850	.01192199923
South Dakota	146,053,670	.00357562087
Tennessee	660,920,850	.01618036977
Texas	3,013,545,120	.07377626891
Utah	240,978,330	.00589952410
Vermont	97,762,860	.00239338678
Virgin Islands	188,953,000	.00462586316
Virginia	1,048,324,650	.02566461699
Washington	623,786,920	.01527127344
West Virginia	244,121,480	.00597647330
Wisconsin	718,698,070	.01759484593
Wyoming	166,569,650	.00407788395
Totals	40,847,079,480	1.00000000000

[FR Doc. 86-22277 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $646,614 (plus accrued interest) obtained as the result of a Consent Order which the DOE entered into with La Gloria Oil & Gas Company of Houston, Texas. The funds will be available to customers who purchased refined petroleum products from La Gloria during the period November 1, 1973 through May 30, 1979.

DATE AND ADDRESS: Applications for Refund of a portion of the La Gloria consent order funds must be filed within 90 days of publication of this notice in the **Federal Register** and should be addressed to La Gloria Oil and Gas Company Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should conspicuously display a reference to Case Number HEF-0210.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order relates to a Consent Order entered into by La Gloria Oil and Gas Company, of Houston, Texas, which settled possible pricing violations with respect to the firm's sales of petroleum products during the period November 1, 1973 through May 30, 1979. Under the terms of the Consent Order $646,614 has been remitted by La Gloria and is being held in an interest-bearing escrow account pending determination of its proper distribution by the Office of Hearings and Appeals (OHA).

The OHA previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the La Gloria consent order funds. The Proposed Decision and Order discussing the distribution of the La Gloria consent order funds was issued on April 8, 1986. 51 FR 13074 (April 17, 1986).

As the La Gloria Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from custmers who purchased refined petroleum products, including propane, from La Gloria during the period November 1, 1973 through December 31, 1975, and motor gasoline from November 1, 1973 through May 30, 1979. The specific information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: September 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 22, 1986.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: La Gloria Oil and Gas Company.

Date of Filing: October 13, 1963.

Case Number: HEF-0210.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive

as a result of enforcement proceedings. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Pursuant to the provisions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with La Gloria Oil and Gas Company (La Gloria) of Houston, Texas. La Gloria, a wholly owned subsidiary of Texas Eastern Transmission Corporation, is engaged in the production, refining, and sale of crude oil, the marketing of refined petroleum products, and other petroleum related activities. La Gloria was therefore subject to the Mandatory Petroleum Allocation and Price Regulations set forth at 10 CFR Parts 210, 211 and 212.

A DOE audit of La Gloria's refining and marketing operations during the period November 1, 1973 through May 30, 1979 revealed possible regulatory violations with respect to the firm's pricing of refined petroleum products. In order to settle all claims and disputes between the parties concerning La Gloria's compliance with the price regulations concerning motor gasoline from November 1, 1973 through May 30, 1979, and all other covered products, including propane, from November 1, 1973 through December 31, 1979, La Gloria and the DOE executed a consent Order on October 30, 1980.[1] In that agreement La Gloria agreed to remit to the DOE $646,614 to be deposited into an interest-bearing escrow account for ultimate distribution by the DOE. In addition, under the terms of the La Gloria Consent Order, the firm reduced its "bank" of unrecouped increased costs by $2,293,905. The Consent Order refers to the DOE's allegations of regulatory violations, but notes that no findings of violation were made. Additionally, the Consent Order states that La Gloria does not admit that it committed any such violations.

On April 8, 1986, the OHA issued a Proposed Decision and Order tentatively setting forth procedures to distribute the funds received pursuant to the Consent Order to parties who were injured by La Gloria's alleged regulatory violations. *See La Gloria Oil and Gas Company*, 51 FR 13074 (April 17, 1986). In the Proposed Decision, we described a two-stage process for distribution of the funds made available pursuant to the La Gloria Consent Order. Specifically, we proposed to disburse funds in the first stage to claimants who could demonstrate that they were injured by La Gloria's alleged overcharges during the applicable consent order period. We stated that money available after payment of refunds to eligible claimants in the first stage would be distributed through a second-stage process, but that the ultimate disposition of those second-stage funds would not be determined until after the completion of the first stage.

We received comments on the Proposed Decision from several States concerning the disposition of funds in the second stage of the proceeding.[2] This Decision and Order establishes the procedures to be used for filing and processing claims in the first stage of the La Gloria refund process. We will not, therefore, determine second-stage procedures in this Decision. Our determination concerning the final disposition of any remaining funds will necessarily depend on the size of the funds. *See Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*).

II. Jurisdiction and Authority

The Subpart V procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution of funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as a part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*). As we stated in the Proposed Decision, we have determined that a Subpart V proceeding is an appropriate mechanism for distributing the La Gloria consent order fund. The OHA will therefore grant the ERA's petition and assume jurisdiction over the funds received pursuant to the La Gloria Consent Order.

III. General Refund Procedures

Since we did not receive any comments objecting to the first-stage procedures tentatively established in the Proposed Decision, we have concluded that those procedures should be adopted. The La Gloria consent order funds will be distributed to claimants who satisfactorily demonstrate that they were injured by La Gloria's alleged regulatory violations during the relevant consent order periods. We expect that claimants will fall into the following general categories: (i) refiners, resellers and retailers (hereinafter collectively referred to as resellers) who resold La Gloria petroleum products; (ii) individuals or firms that consumed La Gloria petroleum products for their own use (end-users); and (iii) regulated non-petroleum entities which used La Gloria products in their businesses, or cooperatives which sold La Gloria products to their members.

A. Showing of Injury

Resellers of La Gloria refined petroleum products generally will be required to demonstrate injury in order to receive a refund. To demonstrate injury, a reseller claimant must provide evidence that it would have maintained its prices for the petroleum products purchased from La Gloria at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that at the time it purchased petroleum products from La Gloria, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In additional, a reseller tht files a claim based upon La Gloria's pricing practices will be required to make a convincing demonstration that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,123 (1982); *Standard Oil Co. (Indiana)/ Suburban Propane Gas Corp.*, 13 DOE ¶ 85,030 (1985). This requirement is generally satisfied by a showing that the reseller had "banks" of unrecovered increased product costs. The presence of banks alone, however, does not automatically establish injury. *See, e.g. Tenneco Oil Co./Chevron U.S.A.*, 10 DOE ¶ 85,014 (1982).

As we proposed we will adopt certain presumptions commonly used in refund proceedings. Presumptions in refund cases are specifically authorized by the DOE procedural regulations. *See* 10 CFR 205.282(e). These presumptions will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

[1] La Gloria's sales of crude oil are not included in the present proceeding. On April 18, 1978, the DOE entered into a separate Consent Order with La Gloria settling crude oil disputes between the firm and the agency.

[2] Comments were filed on behalf of the States of Florida, Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah, and West Virginia. These states assert that state governments are the proper recipients of second-stage refunds.

B. Volumetric Presumption

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by La Gloria. In the absence of better information, this presumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. A volumetric refund amount is calculated by dividing the settlement amount by the total gallonage of products sold by the consent order firm during the consent order period. In the present case, based on the information available to use, the volumetric refund amount is $0.0002068 per gallon, exclusive of interest ($646, 614 consent order fund divided by 3,126,457,769 gallons).[3] Since a consent order is necessarily the result of compromise, the volumetric refund amount derived from that consent order settlement is also a compromise. The volumetric refund amount does not purport to calculate the exact amount that a customer may have been overcharged. Rather, it is a method by which we can estimate the portion of the consent order fund that should be allocated to a given purchaser. However, we recognize that the impact on an individual purchaser could have been greater than this volumetric refund amount, and any purchaser may file a refund application based on a claim that it bore a disproportionate share of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon & Gasoline Co.*, 12 DOE ¶ 85.54 at 88,164 (1984), and cases cited therein.

C. Small Claims Presumption

We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased a relatively small amount of La Gloria petroleum products. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims procedure to assure that the costs of filing and proccessing a refund application do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); (*Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984)) (*Texas Oil*). We shall adopt such a procedure in this case. Therefore, any reseller applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.

D. Spot Purchasers

A reseller that made only spot purchases from La Gloria shall be presumed not to have suffered an injury, and will therefore be ineligible to receive a refund, even one below the threshold level, unless it makes a showing that rebuts this presumption. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they are able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. The same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit evidence which rebuts the spot purchaser presumption and establishes the extent to which it was injured as a result of its spot purchase(s).

E. End-Users

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil*, 12 DOE at 88,209, and cases cited therein. End-users of La Gloria petroleum products will need only to document their purchase volumes from La Gloria to make a sufficient showing that they were injured by the alleged overcharges.

F. Cooperatives and Public Utilities

Firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement will not be required to demonstrate injury in this case. Although such firms, e.g., public utilities and agricultural cooperatives, generally would pass overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate requlatory body or membership group of their receipt of the refund money. *Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,450–51 (1986). We note, however, that a cooperative's sales of La Gloria products to non-members will be treated in the same manner as sales by other resellers.

G. Minimum Refund Level

As in previous cases, we will establish a minimum refund amount of $15.00 for first-stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less that $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982).

IV. Refund Application Procedures

We have determined that the procedures described in the Proposed Decision are the most equitable and efficacious means of distributing the La Gloria consent order fund. Accordingly, Applications for Refund will now be accepted from parties who purchased La Gloria petroleum products during the applicable consent order period. The following information should be included in all Applications for Refund:

1. Case No. HEF–0210 and the applicant's business name and address at the top of the first page.

2. The name, position title, and telephone number of a person who may be contacted by us for additional information concerning the Application.

3. How the claimant used the La Gloria petroleum product(s), i.e., whether it was a refiner, reseller, retailer, or end-user.

4. The volume of each La Gloria petroleum product it purchased by month for the period of time for which it is claiming it was injured by the alleged

[3] The total gallon amount was extrapolated from volume figures in the available ERA audit records, taking into account the different consent order periods and various product decontrol dates.

overcharges.[4] If the product was not purchased directly from La Gloria, the claimant must include a statement setting forth the reasons for believing the product originated from La Gloria.

5. If the applicant is a reseller (or retailer or refiner) who wishes to claim a refund in excess of $5,000 it should also:

(a) State whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations up through decontrol of the product category concerned,

(b) State whether it or any of its affiliates have filed any other Applications for Refund in which it referred to its level of banks as a basis for a refund, and

(c) submit evidence to establish that it did not pass through the alleged injury to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

6. Whether the claimant was in any way affiliated with La Gloria. If so, it should state the nature of the affiliation.

7. Whether there had been any change in ownership of the entity that purchased La Gloria petroleum products since the end of the consent order period. If so, the name and address of the current (or former) owner should be provided.

8. Whether it is or has been involved as a party in any DOE enforcement or private Section 210 actions. If these actions have been terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

9. The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief.

All Applications for Refund must be filed in duplicate. A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its Application contains confidential information must so indicate on the first page of its Application and submit two additional copies of its Application from which the confidential material has been deleted, together with a statement specifying why the information is privileged or confidential.

All Applications should be sent to: The La Gloria Oil & Gas Company Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Applications must be postmarked within 90 days after the publication of this Decision and Order in the **Federal Register.** *See* 10 CFR 205.286. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

It Is Therefore Ordered That: (1) Applications for Refunds from the fund remitted to the Department of Energy by La Gloria Oil & Gas Company pursuant to the Consent Order executed on October 30, 1980 may now be filed.

(2) All Applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: September 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86–22268 Filed 10–1–86; 8:45 am]

BILLING CODE 6450–01–M

[4] Under the terms of the Consent Order, the period of alleged violations by La Gloria in sales of propane and all other covered products except motor gasoline (November 1, 1973 through December 31, 1975) includes the deregulation date for several general refinery products (April 1, 1974). Since no refunds are available with respect to purchases of deregulated products, claimants should make sure that the volumes they submit do not include products purchased after their decontrol

Implementation Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $60,382.82 (plus accrued interest) obtained as a result of a consent order which the DOE entered into with Cranston Oil Service Company, Inc. of Cranston, Rhode Island, and its successor-in-interest Galego Oil Company of Pawtucket, Rhode Island (Case No. KEF–0029). The fund will be available to customers who purchased No. 2 heating oil from Cranston during the consent order period.

DATE AND ADDRESS: Applications for refund of a portion of the consent order fund must be filed within 90 days of publication of this notice in the Federal Register and should be addressed to: Cranston Oil Service Company Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. KEF–0029.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a consent order entered into by Cranston Oil Service Company, Inc. of Cranston, Rhode Island, and its successor-in-interest, Galego Oil Company of Pawtucket, Rhode Island. The consent order settled possible pricing violations with respect to Cranston's sales of No. 2 heating oil during the November 1, 1973 through May 29, 1976 consent order period.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order fund. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on July 10, 1986, 51 FR 26590 (July 24, 1986).

As the Decision and Order indicates, applications for refunds from the consent order fund may now be filed. Applications will be accepted provided they are filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Applications will be accepted from customers who purchased No. 2 heating oil from Cranston during the relevant consent order period. The specified information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: September 19, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 19, 1986.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Cranston Oil Service Company, Inc.

Date of Filing: April 11, 1986.

Case Number: KEF–0029.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on April 11, 1986. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Cranston Oil Service Company, Inc. (Cranston) and its successor-in-interest, Galego Oil Company (Galego).[1]

I. Background

Cranston was a "retailer" of No. 2 heating oil as this term was defined in 10 CFR 212.31, and was therefore subject to the Mandatory Petroleum Price Regulations. The firm was located in Cranston, Rhode Island and marketed No. 2 heating oil to end-users, predominantly residential customers. A DOE audit of Cranston's operations was conducted for the period November 1, 1973 through May 29, 1976 (the audit period). On February 8, 1977, Cranston and Galego entered into a Consent Order with the Federal Energy Administration (FEA), predecessor agency to the DOE, to settle all disputes and claims between Cranston and the FEA regarding the firm's compliance with the price regulations in sales of No. 2 heating oil during the audit period (hereinafter referred to as the consent order period). Under the Consent Order, Galego agreed, for a period of five years following the transfer of Cranston's assets, to deposit 0.9 cents for every gallon of No. 2 heating oil sold to former Cranston customers into an escrow account. The escrow account funds were to be used to provide restitution for the alleged overcharge plus interest, pending a final decision on an Application for Exception from the price regulations filed by Cranston. After several administrative and judicial decisions were issued concerning Cranston's request for exception relief, Galego was ordered on October 8, 1985, to remit to the DOE the amount held in escrow less an overpayment of $643.57, for ultimate distribution to No. 2 heating oil customers of Cranston injured by the alleged overcharges. *See Cranston Oil Service Co.*, 13 DOE ¶82,513 (1985). Accordingly, on November 22, 1985, Galego remitted $60,382.82 to the DOE and that amount was deposited in an interest bearing escrow account under the jurisdiction of the DOE.

On July 10, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order fund. 51 FR 26590 (July 24, 1986). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they are eligible to receive a refund from the monies remitted by Cranston.

In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the **Federal Register** and comments were solicited regarding the proposed refund procedures. In addition, copies of the PD&O were mailed to potential claimants identified in the audit file whose addresses were available. None of Cranston's customers submitted comments on the proposed procedures. Comments were submitted collectively on behalf of the states of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia, and also by Paul F. Galego, President of Galego Oil Company. Mr. Galego's comments will be discussed in Part III below. The comments from the states assert that state governments are the appropriate recipients of second-stage refunds. However, the purpose of this Decision is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceeding. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature to address the issues raised by the states' comments concerning the disposition of any residual funds until after all meritorious first stage claims have been paid.

II. Jurisdiction and Authority

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is the DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Cranston consent order fund. We will therefore grant the ERA's petition and assume jurisdiction over this fund.

III. Refund Procedures

In the PD&O, we proposed that the distribution of refunds take place in two stages. In the first stage refund monies would be refunded to those customers of Cranston who purchased No. 2 heating oil during the consent order period and who demonstrate that they were injured by Cranston's alleged overcharges. In his comments, Mr. Galego suggests that these procedures be modified. He argues that direct restitution should be made only to three categories of Cranston's customers. Under Mr. Galego's proposal, each category would receive an equal one-third share. These categories are: (i) Cranston's former customers still doing business with Galego on February 8, 1977 (the date of execution of the Consent Order); (ii) Cranston's former customers still doing business with Galego on February 8, 1982 (the date of Galego's final payment into the escrow account); and (iii) Cranston's former customers still doing business with Galego from February 8, 1981 to February 8, 1982. Mr. Galego claims that any other customers, i.e., customers who purchased during the consent order period, but ceased doing business with Cranston prior to February 8, 1977—are not easily identifiable and thus it would be impractical to attempt to reimburse them.

Although we recognize that these suggestions are well intentioned, we find that they neglect the stated purpose of our refund procedures—to make restitution only to those customers who were actually injured by the alleged

[1] On February 8, 1977, Cranston completed a transfer of its assets to Galego and ceased operation as a petroleum products retailer.

overcharges. 10 CFR 205.280. Under Mr. Galego's proposal, refunds could be made to former Cranston customers who commenced puchasing from Cranston subsequent to the end of the Cranston consent order period. Such customers clearly could not have been injured by the alleged overcharges which were settled by the Cranston consent order. Our proposed procedures, unlike Mr. Galego's proposal, insure that refunds will be made only to Cranston customers who purchased No. 2 heating oil from Cranston during the consent order period. Accordingly, we will not incorporate Mr. Galego's suggestions into this refund proceeding. Furthermore, we find that our proposed refund procedures remain the most efficacious means of implementing refunds, and we will adopt them.

After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). However, we will not discuss second-stage refund procedures in this Decision and Order.

A. Eligible Claimants

During the first stage of the refund process, the Cranston consent order fund will be distributed to claimants who satisfactorily demonstrate that they were injured by Cranston's alleged regulatory violations during the consent order period. As we indicated earlier, Cranston's customers are individuals or firms that consumed Cranston No. 2 heating oil for for their own use (end-users). In the PD&O, as in many prior decisions, we made a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges covered by the Cranston settlement. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. *See, e.g., Marion Corp.*, 12 DOE ¶ 85,014 (1984); *Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) and cases cited therein. We have received no comments objecting to this finding. We will therefore adopt our proposal that end-users of Cranston No. 2 heating oil need only document their purchase volumes during the consent order period to make a sufficient showing that they were injured by the alleged overcharges.

B. Calculation of Refund Amounts

We must further determine the proper method for dividing the consent order fund among successful applicants. In the PD&O, we proposed to use a volumetric refund methodology. The volumetric refund presumption assumes that the alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence providing this claim in order to receive a larger refund. *See Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

Under the volumetric system we are adopting, a claimant will be eligible to receive a refund equal to the number of gallons of No. 2 heating oil purchased from Cranston times the volumetric factor. The volumetric factor in this case equals $0.020060 per gallon.[2] In addition, successful claimants will receive a proportionate share of the accrued interest.

We will also establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶ 82,541 (1982); *see also* 10 CFR 205.286(b). Thus, an applicant must have purchased a minimum of approximately 748 gallons of No. 2 heating oil ($15 divided by the volumetric refund amount $0.020060) during the consent order period to obtain a refund.

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Cranston consent order fund. Accordingly, we shall now accept applications for refund from eligible customers who purchased No. 2 heating oil from Cranston during the consent order period.

There is no official application form. Applications for refund should be written or typed on business letterhead or personal stationery. The following information should be included in all applications for refund:

1. The name of the consent order firm, Cranston Oil Service Company, Inc., the case number KEF–0029, and the applicant's name should be prominently displayed on the first page.

2. The name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application.

3. The volume of Cranston No. 2 heating oil that the applicant purchased in each month of the period of time for which it is claiming it was injured by the alleged overcharges.

4. A statement of whether there has been any change in ownership of the entity that purchased No. 2 heating oil from Cranston since the end of the consent order period. If so, the name and address of the current (or former) owner should be provided.

5. A statement of whether the applicant is or has been involved as a party in any private legal action against Cranston. If this action has been terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of the application for refund. *See* 10 CFR 205.9(d).

6. The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief.

All applications for refund must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register.** A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeal, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

[2] The volumetric factor in the present case is computed by dividing the consent order amount ($60,382.82) by the 3,010,066 gallons of No. 2 heating oil which the ERA audit files indicate Cranston sold during the consent order period.

All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It Is Therefore Ordered That: (1) Applications for refund from the funds remitted to the Department of Energy by Galego Oil Company on behalf of Cranston Oil Service Company, Inc. pursuant to the Consent Order executed on February 8, 1977 and the Decision and Order issued on October 8, 1985 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Date: September 19, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-22269 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $180,000 (plus accrued interest) obtained from MAPCO, Inc., Case No. HEF-0577. The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate by [30 days from date of publication in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to Case No. HEF-0577.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director or Irene Bleiweiss, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue, SW. Washington, DC 20585. (202) 252-2390 (Wieker) or (202) 252-2400 (Bleiweiss).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute monies obtained from MAPCO, Inc. (MAPCO). MAPCO remitted monies to the DOE to settle possible pricing violations with respect to its sales of crude oil. The firm's payment is being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has tentatively decided that distribution of the monies received from MAPCO will be governed by the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). That policy states that crude oil overcharge monies will be divided among the states, the federal government, and eligible purchasers of crude oil and refined products.

Under the plan we are proposing, refunds to the states would be distributed in proportion to each state's consumption of petroleum products. Refunds to eligible purchasers would be based on the number of gallons of crude oil or refined products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: September 19, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 19, 1986.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: MAPCO, Inc.
Date of Filing: April 3, 1985
Case Number: HEF-0577

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* 10 CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations.

On April 3, 1985, the ERA requested that the OHA formulate such procedures to distribute $180,000 which the DOE received pursuant to a settlement with MAPCO, Inc. (MAPCO). This Proposed Decision and Order sets forth the OHA's tentative plan to distribute the MAPCO monies.

I. Background

During the period of crude oil price controls, MAPCO was the operator of two crude oil producing properties located in Oklahoma.[1] Therefore, MAPCO was a "producer" of domestic crude oil and was subject to the provisions of the DOE's Mandatory Petroleum Price Regulations. The ERA conducted an audit of MAPCO's activities and determined that MAPCO violated the regulations and overcharged its customers by improperly classifying crude oil as "stripper well" crude oil. Therefore, on June 24, 1981, the ERA issued a Proposed Remedial Order to MAPCO requiring the firm to refund its alleged overcharges. MAPCO maintained that it did not violate the regulations, and contested the ERA's determination.

The DOE and MAPCO settled their dispute on August 1, 1984 when they entered into a Consent Order. Under the terms of the settlement, MAPCO paid $180,000 to the DOE to resolve all claims by DOE for the period September 1973 through January 27, 1981 with respect to MAPCO's pricing practices at the Sarasota 1-B #6 and Yarhola properties. MAPCO's payment is being held in an interest-bearing escrow account pending distribution.

II. Jurisdiction and Authority to Fashion Refund Procedures

The general guidelines which the OHA may use to formulate and implement a plan to distribute funds are set forth in 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of alleged or adjudicated violations or to ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

[1] These properties were known as the Sarasota 1-B #6 property and the Yarhola property.

We have considered the ERA's request to implement Subpart V procedures with respect to the monies received from MAPCO and have determined that such procedures are appropriate. Accordingly, we will grant the ERA's request.

III. Proposed Refund Procedures

The monies which MAPCO remitted to the DOE settle alleged crude oil overcharges. Therefore, we propose that the MAPCO monies be distributed in accordance with the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. *See* 51 FR 27899 (August 4, 1986) (hereinafter "the DOE Policy"). Under the DOE Policy, crude oil overcharge monies are to be divided among the States the federal government, and eligible purchasers of crude oil and refined petroleum products.

The DOE Policy was announced on July 28, 1986, as the result of a court-approved Settlement Agreement in *In Re The Department of Energy Stripper Well Litigation*, M.D.L. 378 (D. Kan.).[2] On August 8, 1986, the OHA announced its intention to follow the policy. *Notice of Order Implementing Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges*, 51 FR 29689 (August 20, 1986).[3] In at least one case involving the distribution of alleged crude oil overcharges, the OHA has determined that it is appropriate to follow the DOE Policy. *Mountain Fuel Supply Co.*, No. KEF-0025, 14 DOE ¶ _____ (September 11, 1986) (*Mountain Fuel*).

A. Proposed Refunds to Eligible Purchasers

The DOE Policy provides that claimants who allege injury as a result of crude oil overcharges may file claims. The DOE Policy further provides that up to 20 percent of the crude oil overcharge funds will be reserved for direct restitution to such claimants who prove injury. The funds in this reserve will be distributed in accordance with the existing DOE refund regulations codified at 10 CFR Part 205, Subpart V. The OHA has decided to set aside the full 20 percent and to calculate refunds to eligible claimants who purchased refined petroleum products on the basis of a per gallon refund amount. *Mountain Fuel*, slip op. at 2. This figure is derived by taking the crude oil overcharge monies received and dividing by the total U.S. Consumption of Petroleum Products during the period of price control. *Id.* Using this method, the refund amount in this case would be $.0000000891 per gallon.[4]

The OHA had determined that applications for refund based on crude oil overcharges should be evaluated using methods similar to those which the OHA has used to evaluate claims based on refined product overcharges pursuant to 10 CFR Part 205, Subpart V. *Mountain Fuel*, slip op. at 4. As in non-crude oil refund cases, applicants should be required to docment their purchase volumes and to prove that they were injured by the alleged overcharges (i.e., that they did not pass the overcharges on to their own customers). *Id.*

The standards for showing injury which the OHA has developed in non-crude oil claims should also apply to claims based on crude oil overcharges. *Id.; see, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986). We propose to follow such procedures to distribute these MAPCO monies to eligible claimants.

B. Proposed Refunds to the State and Federal Governments

The DOE Policy provides that the 80 percent of the crude oil funds which are not reserved for direct restitution, as well as any portion of the 20 percent reserve which is not distributed, will be divided between the states and the federal government for indirect restitutionary purposes. Half of these funds will go to the states, in proportion to each state's consumption of petroleum products, and the other half will go to the federal government.[5] *See* "Calculation of Ratios For Distribution to States and Territories," *Final Settlement Agreement*, Exhibit H, *In Re Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378, (D. Kan. 1986) (attached to this Decision as the Appendix). We propose to use this method to distribute a portion of the MAPCO monies to the state and federal governments.

IV. Conclusion

This is a case involving the distribution of alleged crude oil overcharges. Since the DOE has announced a policy regarding crude oil overcharges and the OHA has indicated its intention to follow the DOE Policy in crude oil overcharge cases, we propose to follow the DOE Policy to distribute the monies received from MAPCO.

Before taking the action we have proposed, we intend to publicize our proposal and to solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed Decision should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Decision and Order in the **Federal Register.**

It is therefore ordered that:

The refund amount remitted to the Department of Energy by MAPCO, Inc. pursuant to a Consent Order executed on August 1, 1986, will be distributed in accordance with the foregoing Decision.

Appendix

CALCULATION OF RATIOS FOR DISTRIBUTION TO STATES AND TERRITORIES—M.D.L. 378

State	Consumption	Ratio
Alabama	626,803,520	0.01534512450
Alaska	158,047,980	0.00386926023
American Samoa	7,275,000	0.00017810331
Arizona	418,994,930	0.01025764719
Arkansas	519,811,670	0.01272579770
California	3,739,318,300	0.09154432453
Colorado	439,201,380	0.01075233249
Connecticut	693,689,220	0.01698259040
Delaware	193,932,730	0.00474777469
District of Columbia	97,574,660	0.00238877935
Florida	1,887,260,600	0.04620307312
Georgia	909,619,880	0.02226890861
Guam	60,196,000	0.00147369165
Hawaii	280,655,260	0.00687087703
Idaho	167,643,790	0.00410418057
Illinois	1,876,159,080	0.04593129065
Indiana	1,006,156,560	0.02463227660
Iowa	532,229,530	0.01302980621
Kansas	457,905,310	0.01121023378
Kentucky	523,601,010	0.01281856663
Louisiana	971,591,210	0.02378606310
Maine	300,279,730	0.00735131456
Maryland	731,363,020	0.01790490359
Massachusetts	1,398,309,100	0.03423278036
Michigan	1,391,772,090	0.03407274419
Minnesota	708,814,590	0.01735268297
Mississippi	557,786,510	0.01365548081
Missouri	806,514,320	0.01974472423
Montana	184,882,510	0.00452621123
Nebraska	301,217,700	0.00737427752
Nevada	165,454,200	0.00405057600
New Hampshire	190,375,330	0.00466068401
New Jersey	1,507,862,710	0.03691482302
New Mexico	267,574,460	0.00655063871
New York	3,162,994,520	0.07743502253

[2] For a detailed discussion of the events in the Stripper Well Litigation which brought about the DOE Policy see the OHA's recent decision, *Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986).

[3] The OHA is seeking comments on that notice.

[4] We derived this figure by dividing the monies received from MAPCO ($180,000) by an estimate of the number of gallons of petroleum products consumed in the United States during the period August 1973 through January 1981 (2,020,997,335,000). *Cf.* "Petroleum Consumption for OECD Countries," *Monthly Energy Review*, Energy Information Administration, April 1986, page 109. Successful applicants will also receive their proportion of interest accrued.

[5] In this case we propose that the actual distribution reflect a ratio of 25 percent to the state governments and 75 percent to the federal government. Under the terms of the Stripper Well Settlement Agreement, the states received an advance of $200 million from funds which would otherwise have been disbursed to the DOE. In order to reimburse the DOE for this advance, the Settlement Agreement provides that for amounts which the OHA transfers to the state and federal governments in excess of $100 million, the DOE shall receive 75 percent and the states shall receive 25 percent. *Settlement Agreement*, Paragraph II.B.3c.ii. This arrangement shall continue until the OHA had distributed $400 million under the 75/25 arrangement.

CALCULATION OF RATIOS FOR DISTRIBUTION TO STATES AND TERRITORIES—M.D.L. 378—Continued

State	Consumption	Ratio
No. Mariana Islands	3,763,000	0.00009212409
North Carolina	916,800,700	0.02244470625
North Dakota	149,717,090	0.00366530709
Ohio	1,534,904,170	0.03757684000
Oklahoma	504,486,400	0.01235066023
Oregon	404,894,790	0.00991245384
Pennsylvania	1,901,863,900	0.04656058461
Puerto Rico	389,132,000	0.00952655624
Rhode Island	161,953,570	0.00396487514
South Carolina	486,978,850	0.01192199923
South Dakota	146,053,670	0.00357562087
Tennessee	660,920,850	0.01618036977
Texas	3,013,545,120	0.07377626891
Utah	240,978,330	0.00589952410
Vermont	97,762,860	0.00239338678
Virgin Islands	188,953,000	0.00462586316
Virginia	1,048,324,650	0.02566461699
Washington	632,786,920	0.01527127344
West Virginia	244,121,480	0.00597647330
Wisconsin	718,698,070	0.01759484593
Wyoming	166,569,650	0.00407788395
Totals	40,847,079,480	1.00000000000

[FR Doc. 86-22267 Filed 10-1-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-00072; FRL-3089-9]

Toxic Substances Control Act Hot Line

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Toxic Substances Control Act (TSCA) Assistance Office (TAO) announces that the toll-free telephone number for information is replaced with a commercial telephone number.

DATE: This action is effective October 1, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klien, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC, 20460, (202)-554-1404.

SUPPLEMENTARY INFORMATION: For the past 10 years, TAO has maintained a toll-free telephone hot line to answer questions relating to TSCA. The telephone information service will remain in effect at (202)-554-1404. The toll-free number will no longer be available after September 30, 1986.

Dated: September 26, 1986.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 86-22384 Filed 10-1-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement no.: 202-000050-045.

Title: Pacific Coast/Australia-New Zealand Tariff Bureau.

Parties:

Blue Sar Line, Ltd.
Columbus Line
Pacific Australia Direct LIne
Associated Container Transportation (Australia) Ltd.
The Shipping Corporation of New Zealand Limited

Synopsis: The proposed amendment changes the name of the agreement from Pacific/Australia-New Zealand Conference and republishes the agreement to reflect this change. It also reduces the admission fee to $10,000 and makes certain changes to the agreement's voting provisions as well as other minor, clerical amendments. The parties have requested a shortened review period.

Agreement no.: 224-011006.

Title: Richmond, California Terminal Agreement.

Parties:

City of Richmond
Surplus Property Authority of the City of Richmond
Pasha Properties, Inc. (Pasha)

Synopsis: The proposed agreement would permit Pasha to manage a portion of the Port of Richmond, California, primarily as a vehicle handling facility, for an initital period of ten years.

Dated: September 29, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-22316 Filed 10-1-86; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regualtions. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-011005.

Title: Hilo Terminal Agreement.

Parties:

State of Hawaii (State)
Matson Terminals, Inc. (Matson)

Synopsis: The proposed agreement would permit the State to grant easements to Matson to provide electrical power for Matson's refrigerated cargo container operations at Hilo Harbor. Matson also agrees to buy from the State 32 existing refrigerated container power receptacles, conduits for power, wiring and switches within ten days of the agreement's effectiveness.

Dated: September 29, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-22317 Filed 10-1-86; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the **Federal Register** in which this notice

appears. The requirements for comments and protests are found in § 560.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 124–011004.

Title: Honolulu Terminal Agreement.

Parties:

State of Hawaii (State)

Puget Sound Tug & Barge Company (PST&B)

Synopsis: The proposed agreement would permit the State to lease space for general office use in the Pier 2 Transit Shed at Honolulu Harbor to PST&B for a period of ten years.

Filing Party: Wayne J. Yamasaki, Director of Transportation, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Dated: September 29, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86–22318 Filed 10–1–86; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegation of Authority; Office of the General Counsel

Part A of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services covers the Office of the Secretary. Chapter AG of Part A, which was published at 38 FR 17032 on June 28, 1973 and most recently amended at 51 FR 22981, is amended to reflect organizational charges in the OGC. Effective March 17, 1986, the title of Regional Attorney Region I–X was changed to Chief Counsel, Regions I–X. Effective May 5, 1986, the Business and Administrative Law Division was reorganized requiring changes in delegations regarding adjudication of claims. Notice is hereby given that on May 9, 1986, authority to adjudicate claims under the Federal Tort Claims Act and authority to take action under Section 224(f) of the Public Health Service Act as detailed below were delegated to the Chief, Litigation Branch. Authority to adjudicate other claim matters was delegated to the Chief, Administrative Law Branch.

The following changes to Chapter AG reflect these changes:

Section AG.23 amend the heading to read:

Section AG.23 *Office of the Chief Counsel, Regions I–X.*

These offices provide professional legal and managerial expertise for the Office of the General Counsel in their respective geographical locations.

Amend Section AG.30 to read:

Section AG.30 *Department Claims Officer.*

A. The Associate General Counsel, Business and Administrative Law Division, or, in his absence or inability to act, the Deputy Associate General Counsel, Business and Administrative Law Division, is designated Department Claims Officer and is authorized:

1. As the designee of the Secretary for the purpose, to perform the duties and exercise the authority vested in him by—

(a) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) as amended and section 233(a)–(f)) of the Emergency Health Personnel Act of 1970 (42 U.S.C. 233(a)–(f).

(b) the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721 et seq.) as amended.

(c) the Federal Claims Collection Act of 1966 (31 U.S.C. 3711 et seq.) as amended, except with respect to erroneous payments under Titles II and XVIII of the Social Security Act.

(d) 5 U.S.C. 5584 authorizing waiver, in certain cases, of claims arising out of erroneous payments of pay to employees of the agency.

The authority to adjudicate claims arising under the statutes enumerated in (a) above has been redelegated to the Chief, Litigation Branch, Business and Administrative Law Division, by the Department Claims Officer.

The authority to adjudicate claims arising under the statutes enumerated in (b), (c), and (d) above has been redelegated to the Chief, Administrative Law Branch, Business and Administrative Law Division by the Department Claims Officer.

2. To formulate, prescribe, and issue rules, regulations, procedures, and instructions for investigating, collecting evidence, reporting, processing, and otherwise handling throughout the Department, claims and situations out of which claims or suits may arise under the statutes, and situations of the character contemplated by any law out of which claims or suits by the Government for damage to Government property may arise.

3. To arrange for the maintenance and control of the necessary files and records of such claims and situations.

4. To generally direct and coordinate the activities of the operating divisions and staff divisions of the Department in carrying out the provisions of this section.

B. Any notice or writing, required by 28 U.S.C. 2675(b) to be served on the Department or on an operating or staff division, may be served on the Department Claims Officer.

C. The Department Claims Officer shall, as often as he deems proper but not less than once a year, submit to the Secretary a report of his activities pursuant to this section. Such report or reports shall include all of the data required by the statutes to be reported by the Secretary to the Congress and may also include any accident trends, practices, procedures, or other circumstances, including the operation of safety programs, as evidenced by situations and claims which come to his attention in the performance of his duties and which may indicate the need for administrative action.

Amend Section AG.40 to read:

Section AG.40 *Delegation by the Secretary of Authority for Recovery of the Cost of Hospital and Medical Care and Treatment Furnished by the United States.*

Pursuant to the authority contained in the Federal Medical Care Recovery Act (42 U.S.C. 2651 et. seq.) as amended, and in accordance with the regulations of the Attorney General (26 CFR Part 43), the General Counsel is authorized, in connection with any claim for the recovery of the reasonable value of hospital and medical care and treatment furnished by this Department to: (1) Accept the full amount of a claim and execute a release therefor, (2) compromise or settle and execute a release of any claim, not in excess of $40,000, which the United States has for the reasonable value of such care or treatment, or (3) waive and in this connection release any claim, not in excess of $40,000, in whole or in part, either for the convenience of the Government, or if he determines that collection would result in undue hardship upon the person who suffered the injury or disease for which care and treatment were furnished, and (4) with the prior approval of the Department of Justice, compromise, settle, or waive any claim in excess of $40,000 and execute a release therefor.

Amend Section AG.41 to read:

Section AG.41 *Redelegation by the General Counsel.*

The authorities delegated to the General Counsel by Section AG.40 have been redelegated to the Associate General Counsel, Business and Administrative Law Division.

Amend Section AG.42 to read:

Section AG.42 *Redelegations by the Associate General Counsel, Business and Administrative Law Division.*

The authorities delegated to the Associate General Counsel, Business and Administrative Law Division by section AG.40 have been redelegated to the Chief, Administrative Law Branch. They have also been redelegated to the Chief Counsel in each of the ten Regional Offices of this Department, with respect to claims within their respective regions for the recovery of the reasonable value of hospital and medical care and treatment furnished by this Department in the amount of $2,500.00 or less which have not been referred to the Department of Justice for further action.

Dated: September 22, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-22299 Filed 10-1-86; 8:45 am]

BILLING CODE 4110-12-M

Senior Executive Service Performance Review Board Membership

Title 5, U.S. Code, section 4314(c)(4) of the Civil Service Reform Act of 1978, Pub. L. 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Federal Performance Review Board Members

Richard H. Adamson, Ph.D.
Duane F. Alexander, M.D.
Loran D. Archer
William H. Aspden, Jr.
Joseph P. Autry, M.D.
Gerald L. Barkdoll
Carol A. Bauer
Edwin D. Becker, Ph.D.
Katherine L. Bick, Ph.D.
James D. Bloom
Windell R. Bradford
Everett F. Bryant
Barbara S. Bynum
Hugh C. Cannon
Ronald H. Carlson
Bruce A. Chabner, M.D.
Vivian Chang, M.D., M.P.H.
Philip S. Chen, Jr., Ph.D.
Winston M. Cobb
Bartholomew J. Crivella
Rhoda M. Davis
John L. Decker, M.D.
James J. Delaney, II
Walter R. Dowdle, Ph.D.
John C. Eberhart, Ph.D.
Jo Eleanor Elliott
Gail F. Fisher, Ph.D.
Bartlett S. Fleming
Carl A. Fretts
Barbara J. Gagel
John I. Gallin, M.D.
Norman M. Goldstein
Frederick K. Goodwin, M.D.
Carolyn D. Gray
Jerome C. Green, M.D.
Richard C. Greulich, Ph.D.
Gerald B. Guest, D.V.M.
Louis B. Hays
George R. Holland
Donald R. Hopkins, M.D.
Vernon N. Houk, M.D.
Robert A. Israel
Gerald H. Ivey
Barry L. Johnson, Ph.D.
Elke Jordan, Ph.D.
John H. Kelso
Roland E. King
Eugene Kinlow
Jin H. Kinoshita, Ph.D.
Ruth L. Kirschstein, M.D.
Irwin J. Kopin
Richard P. Kusserow
Claude J. Lenfant, M.D.
Joseph R. Leone
Arthur S. Levine
Hulda Lieberman
Samuel Lin, M.D.
Donald A.B. Lindberg, M.D.
Harald A. Loe, D.D.S.
John D. Mahoney
Joel D. Mangel
Norman D. Mansfield
Jaime L. Manzano
Jack N. Markowitz
Jack W. Martin
Warren Master
S. Anthony McCann
Charles R. McCarthy, Ph.D.
Thomas S. McFee
Gerald F. Meyer
J. Donald Millar, M.D.
Richard A. Millstein
Donald N. Mings
Larry D. Morey
Jay Moskowitz, Ph.D.
Joseph A. Mottola
William E. Muldoon, Jr.
John A. Norris
Abner L. Notkins, M.D.
James F. O'Donnell, Ph.D.
Jack Orloff, M.D.
Delores L. Parron, Ph.D.
Betty H. Pickett, Ph.D.
Julie C. Ponquinette, M.D.
Arnold W. Pratt, M.D.
Alan S. Rabson, M.D.
David P. Rall
Joseph E. Rall, M.D.
William F. Raub, Ph.D.
Richard J. Riseberg
Martin Rodbell, Ph.D.
Jesse Roth, M.D.
Thomas Scarlett
Sandra H. Shapiro
Gordon M. Sherman
Lawrence E. Shulman, M.D.
Clay E. Simpson, Jr., Ph.D.
Barbara S. Sledge
Frank V. Smith, III
Kent A. Smith
Vivian L. Smith
Marvin Snyder, Ph.D.
Dale W. Sopper
Frank J. Sullivan, Ph.D.
Dennis D. Tolsma
Robert L. Trachtenberg
Carl W. Tyler, Jr., M.D.
John C. Villforth
Craig K. Wallace, M.D.
James A. Walsh, Dr., Ph.D.
Barbara S. Wamsley
Norman W. Weissman, Ph.D.
Daniel F. Whiteside, D.D.S.
Robert A. Whitney, Jr., D.V.M.
T. Franklin Williams
Judith B. Willis

Summary Statement

Department of Health and Human Services

Action: Listing of members of this Department's Senior Executive Service Performance Review Boards.

Date: Performance Review Boards effective September 24, 1986.

For further information contact: Brenda J. Clinton, 202: 426-2753.

Dated: September 24, 1986.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 86-22361 Filed 10-1-86; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 86F-0375]

The Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinylidene chloride/methyl acrylate copolymers as a food-contact surface in packaging systems employing hydrogen peroxide as a sterilizing agent.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3953) has been filed by

The Dow Chemical Co., Midland, MI 48674, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of vinylidene chloride/methyl acrylate copolymers as a food-contact surface in packaging systems employing hydrogen peroxide as a sterilizing agent.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 24, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-22280 Filed 10-1-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86F-0385]

Petrolite Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Petrolite Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of synthetic primary linear aliphatic alcohols as components of food-packaging adhesive formulations.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3954) has been filed by Petrolite Corp., P.O. Box 21538, Tulsa, OK 74121, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of synthetic primary linear aliphatic alcohols as components of foodpackaging adhesive formulations.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 24, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-22281 Filed 10-1-86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 49, No. 228, pp. 46502-46505, dated Monday, November 26, 1984) is amended to reflect a reorganization within the Bureau of Data Management and Strategy (BDMS) in the Office of the Associate Administrator for Management and Support Services. In order to facilitate the amendment to Part F. of the Department statement, we are republishing the entire set of BDMS functional statements even though the Bureau statement and several subordinate statements are unchanged.

The specific amendments to Part F. are as follows:

Section FH.20.D., Bureau of Data Management and Strategy (FHE), is deleted in its entirety and replaced by a new set of functional statements for the entire Bureau. The Bureau title, functional statement, and administrative code remain unchanged, however, it is being republished in order to keep all of the Bureau's functional statements together in one location in the **Federal Register.** The new set of statements read as follows:

D. Bureau of Data Management and Strategy (FHE)

Manages statistical data systems on HCFA programs to support program decisions by various HCFA components. Provides mathematical and statistical programming required to answer research inquiries. Develops and coordinates statistical and information policy. Coordinates the development of HCFA information policy as it relates to HCFA's long-range information plans with non-Federal segments of the health care industry. Develops common coding standards and quality assurance monitoring mechanisms. Provides technical information planning and developmental review of HCFA data collection initiatives. Coordinates the development of special purpose statistical data bases required for assessing the impact of proposals which change health care financing programs, special research and evaluation studies, and general data dissemination. Designs and develops the production of periodic statistical tabulations to assess the characteristics of HCFA beneficiaries and the utilization and cost of program benefits. Provides direction for the nationwide operation of a centralized automated data processing (ADP) and telecommunications facility for HCFA including systems analysis, programming, computer operations, and data transmission. Establishes and maintains computerized records supporting HCFA programs including records for determining entitlement to the utilization of Medicare benefits and program management records that facilitate the administration of HCFA programs. Negotiates and administers agreements and provides ADP liaison between HCFA users, the Social Security Administration, and other external organizations for the provision of ADP capacity and support services. Develops, coordinates, and directs the HCFA ADP systems security program including its application to Medicare contractors, in accordance with the Executive Office of Management and Budget, General Services Administration, and Department of Health and Human Services' guidelines.

1. Office of Information Resources Management (FHE-2)

Serves as the focal point for the planning of HCFA's information systems. Develops and assures compliance with HCFA's long- and short-range information plans and processes. Determines and assures compliance with internal HCFA automated data processing (ADP) policies and procedures including information systems planning, systems approval, security, and privacy. Provides systematic identification, assessment, and certification of new, revised, or existing HCFA information systems and processes in accordance with Departmental, and other higher monitoring authorities,and with HCFA policies, standards, and information plans. Develops and maintains an inventory of HCFA's information systems. Coordinates and provides liaison on policy and planning for information systems within HCFA and between HCFA and other governmental agencies and nongovernmental groups. Develops, implements, and maintains a

HCFA-wide ADP financial management program to fund and support ADP operation and information systems development activities. Formulates and executes the HCFA ADP common expense budget and the Information Technology System plan and budget in conjunction with Agency-wide budgetary submissions to the Department. Administers the HCFA ADP project management program to monitor selected system-related activities. Performs the Agency-wide ADP resource management function to assess and monitor ADP resource utilization. Develops, coordinates, and directs the HCFA ADP systems security program to ensure the protection of HCFA systems and ADP equipment. Negotiates and administers agreements and provides liaison between HCFA, the Social Security Administration, and other external organizations for the provision of ADP support services. Develops and coordinates HCFA's participation in the Federal Information Processing Standards Program. Develops and controls a comprehensive Bureau-wide management and organization development program, including management analysis, management information systems, personnel management, training, and administrative services. Develops, implements, and maintains a Bureau-wide financial management program to support administrative operations.

2. Office of Health Programs Systems (FHE5)

Designs, develops, implements, and maintains automated data processing (ADP) and telecommunications systems and software, data files and formats, and manual procedures required to support the Agency's programmatic mission from operational, program management, and quality control aspects. Establishes and maintains a national file of eligible Medicare beneficiaries. Establishes and maintains a history of Medicare benefit utilization. Integrates entitlement data and information from other programs (e.g., Medicaid, Veterans Administration) into Medicare files. Receives and responds to queries regarding beneficiary entitlement and benefit and deductible status from a nationwide network of Medicare fiscal agents. Provides program data and related information to authorized requestors. Maintains systems that support the certification of providers of service in the Medicare and Medicaid programs. Determines and reconciles payment liability for group health organizations. Prepares billings for and receives and processes ADP records for Medicare premium remittances from third party payors and beneficiaries. Prepares a variety of program management reports (e.g., workloads, processing times) for distribution throughout the Agency, Department, and Medicare fiscal agents. Provides ADP support to the Agency for quality control systems, fraud and abuse detection systems, and beneficiary and provider overpayment systems. Consults with central and regional office components and other government agencies to define programmatic ADP systems performance requirements. Negotiates, reviews, and approves systems designs. Consults with Bureau of Data Management and Strategy components to define ADP and teleprocessing resource requirements and provides input to the budget planning and procurement processes. Insures an awareness of and compliance with government-wide and local security and privacy requirements within the Office. Directs and coordinates implementation of the Project to Redesign Information Systems Managment for the Office. Serves as the Data Base Administrator for the Office. Provides technical support to Office programmers.

a. Division of Beneficiary and Provider Systems (FHE51).

Designs and implements automated data processing (ADP) systems, manual processes, and procedural instructions for: development and maintenance of a master file of all individuals eligible for Medicare benefits (including Railroad Retirement annuitants); enrollment of beneficiaries and issuance of identification cards; posting of benefit utilization data and responding to utilization queries from intermediaries and carriers; issuance of notices of benefit utilization; maintenance of controls for reconciliation and audit of providers and carriers; determination, billing, and collection of Medicare premium liability from third party entities and direct paying beneficiaries; and the determination and reconciliation of the payment liability for group health plans. Furnishes a variety of management data for review, appraisal, and planning purposes and assists other HCFA systems components in developing and interpreting the data. Provides systems support and technical expertise to the Office of Management and Budget in resolving electronic exceptions and processing correspondence.

b. Division of Program Management Systems (FHE52). Designs, develops, and maintains a wide variety of automated data processing (ADP) and telecommunications systems in support of HCFA program management functions including: workload operating systems, Supplementary Medical Insurance physician and laboratory payment information systems, fraud and abuse detection systems, management support systems, beneficiary and provider overpayment systems, provider certification and billing data including an on-line query and reply subsystem, accounting controls for the reconciliation and audit of providers and carriers, and the Medicare Quality Control system. Provides technical support ot HCFA regional offices in the program management systems areas. Provides technical and state-of-the-art expertise in the use of current program data bases for the design and development of new systems which support HCFA program management objectives.

3. Office of Computer Operations (FHE6)

Directs the management, selection, acquisition, operation, maintenance of, and establishes workload planning and controls for: HCFA's automated data processing (ADP) and data communications (DC) facilities and equipment; including mainframe computers, minicomputers, microcomputer and word processing (WP) equipment, and associated vendor supplied software and ADP training. Provides technical assistance and consultation to all HCFA components regarding solutions to ADP equipment and support software problems including systems design, selection, procurement, technical evaluation, security, utilization, and operations. Controls Office of Computer Operations (OCO) managed ADP resources including cost estimates, planning and scheduling of expenditures, inventory, purchase, lease, and maintenance of ADP hardware, software, and services. Provides technical review and serves as the Agency's final technical authority for the approval for purchase, lease, and maintenance of all ADP equipment and systems throughout HCFA. Develops HCFA-wide ADP budget estimates and spending plans. Provides technical evaluation and liaison to the Department and other Federal agencies related to ADP acquisitions. Provides analyses, installation, modification, and maintenance of operating systems, micor and mincomputers, and WP and DC systems software for all HCFA components. Manages systems software and software products including data base management systems, graphics, program generators and statistical analysis packages, personal computer packages, and office automation

systems. Monitors ADP equipment utilization, capacity, and performance and makes available the necessary reports for all levels of management. Responsible for all long-term technical and operational capacity planning for solution to HCFA's ADP mission needs and requirements. Advises the Bureau and HCFA management on ADP issues and concerns and represents HCFA in dealing with Federal and non-Federal agencies and organizations on the full Agency-wide range of OCO functions including vendor supplied software, hardware systems plans, and ADP acquisition and utilization.

a. Division of ADP Operations (FHE61). Manages, operates, and maintains the HCFA Data Center (HDC) and data communication (DC) facilities. Establishes workload planning and controls and schedules work to be processed. Coordinates the resolution of hardware and software problems with appropriate vendors. Notifies, reviews approves, schedules, implements, and coordinates HDC and DC systems changes. Develops and maintains problem resolution logs to rapidly identify the extent to problems with the systems. Monitors operational performance and informs appropriate technical staff of system abnormalities or failures. Recommends and implements changes to improve resource availability and performance. Provides the necessary operational data to advise the Office Director and other HCFA officials concerning automated data processing operations and on matters concerning DC networks and facilities. Provides liaison with other HCFA components, other Federal agencies, and private organizations concerning HDC operations and DC systems. Serves as the HCFA telecommunication office representing HCFA on the Department of Health and Human Services Telecommunications Advisory Committee (TAC).

b. Division of User Support (FHE62). Supports the Office Director in the role as the principal focal point for coordinating matters relating to the acquisition and use of approved automated data processing (ADP) hardware within HCFA, as required in Section 1–10–50 of the Department of Health and Human Services ADP Systems Manual. Serves as the Agency focal point for coordinating, controlling, and approving component requests for the acquisition of ADP hardware equipment, supplies, software, and services. Provides ADP liaison between HCFA users and ADP suppliers. Manages a HCFA-wide ADP capcity planning and management program to plan for, acquire, and oversee the utilization of all HCFA ADP software and hardware. Develops and operates a chargeback, billing, utilization, and performance monitoring system pertaining to the HCFA Data Center (HDC). Provides a lead role to support the Office Director in matters relating to ADP budget, planning, and coordination with other Agency components. Develops, manages, and operates the Agency-wide ADP training program including: Personal computers, word processors, minicomputers, mainframes, and related software and ADP design techniques. Provides technical assistance to HDC users as requested. Provides Agency-wide direction and leadership in the development of office automation technology including analysis of user needs, selection of alternative solutions, procurement, training, and implementation. Provides Agency-wide direction, standards setting, and approval in the areas of word processors, personal computers, and minicomputers. Maintains awareness of current developments in all the above areas in order to serve as the HCFA expert for end-users and programming components who require technical assistance. Creates and operates liaison groups for all the above areas in order to provide a communication mechanism between and among users and the Office of Computer Operations.

4. Office of Statistics and Data Management (FHE7)

Develops and implements plans and policies for the classification, standardization, identification, development, and security of data, procedures, and standards to meet HCFA's information requirements. Develops and conducts data needs assessments. Develops and maintains the Agency program information strategy and plan for applying data planning and management techniques to support the redesign and functioning of Agency systems. Designs, implements, maintains, and ensures the continuing operation of current and revised national health care information and program decision support systems. Extracts health care data necessary to support HCFA activities from HCFA, the Social Security Administration, and other health-related sources using large-scale computer systems and/or personal computers, as necessary. Provides sophisticated computational and statistical services, mathematical modeling, simulations, systems analysis, and statistical programming. Design information systems, data bases, and software applications for research and development. Conducts special purpose information retrieval and processing activities in support of project undertaken by HCFA. Develops programs to array data in accordance with general specifications developed within HCFA. Develops standards for and monitors the quality of program management and statistical data. Participates in the evaluation, development, and operation of automated medical coding systems and in the formulation and use of medical codes including: International Classification of Diseases, Ninth Revision, Clinical Modifications, HCFA Common Procedure Coding System, and diagnosis related groups. Coordinates and provides liaison on data standards activities within HCFA and between HCFA and other governmental agencies and non-governmental groups. Serves as the focal point for the planning and evaluation of HCFA's data standards development, including coding convention. Disseminates statistical data, estimates, analyses, and related information on health-related programs in response to questions from legislators, program administrators, policymakers, researchers, and health planners in the public and private sectors. Prepares statistical reports for external publications and management reports on HCFA programs and related areas. Provides support for program analysis, policy development, and epidemiological research for the Federal End Stage Renal Disease (ESRD) program and disseminates ESRD program information in publications, management reports, and responses to ad hoc requests.

a. *Division of Data Development (FHE71).* Designs, implements, maintains, and ensures the continuing operation of national health care information and decision support systems. Extracts health care data necessary to support HCFA activities from HCFA components, the Social Security Administration, and other health-related sources using large-scale computer systems and/or personal computers, as necessary. Develops programs to array data in acordance with HCFA. Develops and maintains file management systems, data storage techniques, file documentation libraries, and information retrieval systems. Ensures the quality and integrity of program statistical data by advising and consulting on data collection policy and procedures, forms design, and forms clearance with other HCFA components requiring program data. Arranges for necessary revisions in source records

due to legislation or changes in administrative operations.

b. *Division of Statistical Analysis (FHE72).* Provides sophisticated computational and statistical services, mathematical modeling, simulations, systems analysis, and statistical programming. Designs information systems, data bases, and software applications for research and development. Conducts special purpose information retrieval and processing activities in support of projects undertaken by HCFA. Processes and disseminates statistical reports and information in support of program managers, researchers, and policymakers. Manages the Hospital Cost Report Information System which is the national data base for all Medicare hospital cost reports.

c. *Division of Information Analysis (FHE73).* Disseminates statistical data, estimates, analyses, and related information on health-related programs in response to questons from legislators, program administrators, policymakers, researchers, and health planners in the public and private sectors. Maintains a data library including publications, computer output, microfilm, and machine-readable data files. Designs and maintains data systems for the analysis and dissemination of program data. Prepares statistical reports for external publications and management reports on HCFA programs and related areas. Provides support for program analysis, policy development, and epidemiological research for the Federal End Stage Renal Disease (ESRD) program and disseminates ESRD program information in publications, management reports, and responses to ad hoc requests.

d. *Division of Data Administration (FHE74).* Develops and implements plans and policies for the classification, standardization, identification, development, and security of data, procedures, and standards to meet HCFA's information requirements. Develops and conducts data needs assessments. Develops and maintains a strategy and plan for applying data planning and management techniques to support the redesign and functioning of Agency systems. Assists user groups in defining reporting requirements and data needs. Establishes and maintains standards and procedures for creating and modifying data definitions to ensure uniform use of program and administrative data. Develops standards for and monitors the quality of program management and statistical data. Participates in the evaluation, development, and operation of automated medical coding systems and in the formulation and use of medical codes including: Internal Classification of Diseases, Ninth Revision, Clinical Modifications, HCFA Common Procedure Coding System, and diagnosis related groups. Coordinates and provides liaison on data standards activities within HCFA and between HCFA and other governmental agencies and non-governmental groups (e.g., National Center for Health Statistics, American Medical Record Association, American Medical Association, American Hospital Association). Serves as the focal point for the planning and evaluation of HCFA's data standards development, including coding conventions.

Dated: September 24, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 86-22363 Filed 10-1-86; 8:45 am]

BILLING CODE 4120-03-M

[OACT 007-N]

Medicare Program; Monthly Actuarial Rates and Part B, Premium Rates Beginning January 1, 1987

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for calendar year 1987. It also announces the monthly SMI premium rate to be paid by all enrollees during calendar year 1987. The 1987 monthly Part B premium will be increased from $15.50 to $17.90. However, the premium will not be increased if monthly Social Security benefits are not increased for 1987, as now appears likely under current law. (Legislation is pending that would ensure a cost-of-living increase in Social Security benefits for 1987.)

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (301) 594-2893.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Supplementary Medical Insurance (SMI) program is the voluntary Medicare Part B program that pays all or part of the costs for physicians' services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (Medicare Part A). The SMI program is available to individuals who are entitled to hospital insurance and to U.S. residents who have attained age 65 and are citizens, or aliens who were lawfully admitted for permanent residence and have resided in the United States for five consecutive years. This program requires enrollment and payment of monthly premiums, as provided in 42 CFR Part 405, Subpart I.

The Secretary of Health and Human Services is required by law to issue two annual notices relating to the SMI program.

One notice announces two amounts that, according to actuarial estimates, will equal respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates."

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92-603, (the Social Security Amendments of 1972) and until the passage of section 124 of Pub. L. 97-248, (the Tax Equity and Fiscal Responsibility Act of 1982) the premium rate was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

Section 606 of Pub. L. 98-21, section 2302 of Pub. L. 98-369 (the Deficit Reduction Act of 1984) and section 9313 of Pub. L. 99-272 (Consolidated Omnibus Reconciliation Act) amended section 1839 of the Social Security Act ("the Act") to extend through 1988 the provision that the premium be based on 25 percent of program costs. In January 1989, calculation of the premium rate will revert to the method in section 1839(a) of the Act used before the passage of Pub. L. 97-248, Pub. L. 98-21, Pub. L. 98-369 and Pub. L. 99-272, except

that it will remain on a calendar year basis.

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act that was added by Pub. L. 98–369. This provision refers to section 215(i) of the Act, which provides for cost-of-living increases in social security benefits. Section 1839(f)(1) of the Act, as amended by section 9313 of Pub. L. 99–272, states that if no cost-of-lving increase under section 215(i) of the Act becomes effective in December 1985, 1986 or 1987, there will be no increase in the SMI monthly premium paid by the enrollees for the following year. Thus, the premium will remain at the December level. (However, those individuals who enroll in the SMI program after the expiration of their initial enrollment period, or reenroll after a termination of a coverage period, are still subject to the increase in premium described in section 1839(b) of the Act. That increase is a percentage of the premium and would be based on the new premium rate.)

Section 1839(f)(2) of the Act, as added by Pub. L. 98–369 and amended by Pub. L. 98–617 and Pub. L. 99–272, contains provisions that are applicable if there is a cost-of-living increase for 1986, 1987 or 1988. The law provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums deducted from these benefit payments, the premium increase would be reduced to avoid causing a decrease in the individual's benefit payment. This would occur if the increase in the individual's social security benefit due to the cost of living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits.[1]

Generally, the reduced SMI premium for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the SMI premium for December.

(2) The monthly premium for that individual for that December.

Again, those individuals who have enrolled in the SMI program late or have reenrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. In these cases, the monthly premium would be calculated as specified in (1) and (2) above with the addition of the amount specified under the provisions of section 1839(b) of the Act. That increase is a percentage of the premium and would be based on the new premium rate.

In determining the premium limitations under section 1839(f)(2) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f)(2) of the Act, it will not be changed during the calendar year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

For calendar year 1987, the notices of the monthly actuarial rates and the monthly premium rate are as follows:

II. Notice of Monthly Actuarial Rates

As required by sections 1839(a) (1) and (4) of the Act (42 U.S.C. 1395r(a) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for calendar year 1987 are $35.80 for enrollees age 65 and over, and $53.00 for disabled enrollees under age 65. The accompanying statement (section IV.) gives the actuarial assumptions and bases from which these rates are derived.

III. Notice of Monthly Premium Rate

As required by section 1839(a)(3), (e)(1) and (f) of the Act (42 U.S.C. 1395r(a)(3), (e)(1) and (f)), as amended, I have determined that the standard monthly premium amount will be $17.90 during calendar year 1987. However, if monthly Social Security benefits are not increased for 1987, as now appears likely unless legislation is enacted to ensure a cost-of-living increase, the premium will not be increased, but will remain at $15.50 monthly. The accompanying statement shows how the premium amount was derived.

IV. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1987

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

The law requires that the SMI program be financed on an incurred basis; that is, program income during the calendar year for which the actuarial rates are effective must be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the calendar year is added to the trust fund until needed. Thus the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for periods from 1985 through 1986.

TABLE 1.—ESTIMATED ACTUARIAL STATUS OF THE SMI TRUST FUND AS OF THE END OF THE FINANCING PERIODS, JAN. 1, 1985 TO DEC. 31, 1986

[In millions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
Dec. 31, 1985	$10,924	$3,237	$7,687
Dec. 31, 1986	8,715	3,660	5,055

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half of the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate

[1] Note.—A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December and has the December's SMI premium deducted from it.

degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1987 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1987 and June 30, 1988, by type of service. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July 1 annual fee screen update used for benefits prior to the passage of section 2306(b) of Pub. L. 98–369. The values for the 12-month period ending June 30, 1984, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1984, through December 31, 1987, are shown in Table 3.

The projected monthy rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for calendar year 1987 is $39.02. The monthly actuarial rate of $35.80 provides an adjustment for interest earnings and −$2.86 for a contingency margin. Based on current estimates, it appears that the assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of projection error. Thus, a negative margin is needed to reduce assets to a more appropriate level.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projection for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected differently because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar year 1987 is $61.15. The monthly actuarial rate of $53.00 provides an adjustment for interest earnings and a −$1.45 for a contingency margin. As in the determination of the monthly actuarial rate for aged enrollees, a negative margin is needed to reduce the surplus to a more appropriate level.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined from a study on the average historical error in the respective increase factors. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 was prepared based on the assumption that there will be no cost-of-living increase under section 215(i) of the Act for December 1986. Current information indicates that it is unlikely that the applicable increase in the consumer price index would exceed the three percent required by section 215(i) of the Act for any cost-of-living increase to take effect. The assumption that there will be no cost-of-living increase under section 215(i) of the Act has two impacts on the trust fund for 1987. First, section 1839(f)(1) of the Act freezes the SMI premium for 1987 at $15.50 for all SMI enrollees, except for those individuals subject to section 1839(b) of the Act. Second, section 1844(a)(1) of the Act allows for general revenue transfers to be made based on the premium rate determined by section 1839(a)(3) or 1839(e) of the Act ($17.90) and not by the rate determined by section 1839(f)(1) of the Act ($15.50). Consequently for 1987 the income to the trust fund, and, therefore, the assets of the trust fund, will be less than what they would have been if there had been a cost-of-living increase. Furthermore, based on the general revenue determination of section 1844(a)(1) of the Act, this loss of assets in 1987 will be the same regardless of the margins included in the actuarial rates, provided that the aged actuarial rate for 1987 exceeds the rate for 1986.

With regard to the above, Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of −$737 million by the end of December 1987. This amounts to −2.1 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) deplete the trust fund by the end of December 1987. Under fairly optimistic assumptions, the monthly actuarial rates will result in a surplus of $2,978 million by the end of December 1987, which amounts to 9.4 percent of the estimated total incurred expenditures for the following year.

E. Standard Premium Rate

For calendar years 1984 through 1988, the law provides that the standard monthly premium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for calendar year 1987 is $17.90, which is 50 percent of the monthly actuarial rate for this period ($35.80).

V. Regulatory Impact Statement

The monthly SMI premium rate of $17.90 for all enrollees during calendar year 1987 is 15.5 percent higher than the $15.50 monthly premium amount for the previous financing period. The estimated cost of this increase over the current premium to the approximately 31.2 million SMI enrollees will be about $898 million for calendar year 1987.

This notice merely announces amounts required by legislation. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291 or the Regulatory Flexibility Act (5 U.S.C. 601 through 612).

TABLE 2.—PROJECTION FACTORS[1] 12-MONTH PERIODS ENDING JUNE 30 OF 1984–1988

[In percent]

12-month period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home health agency services	Group practice prepayment plans	Independent lab services
	Fees[2]	Residual[3]					
Aged:							
1984	7.2	4.7	−12.3	22.7	28.6	22.3	23.3
1985	0.8	4.6	1.8	17.2	1.5	12.8	111.2
1986	0.	7.3	13.5	22.3	8.0	21.5	13.1
1987	5.1	2.4	13.4	18.2	10.7	22.0	11.8
1988	5.1	2.7	13.7	16.9	12.3	22.3	16.3
Disabled:							
1984	7.2	3.7	−11.5	−2.0	0	4.9	20.2
1985	0.8	6.6	−0.3	9.2	0	29.7	113.1
1986	0.1	8.7	14.5	21.7	0	12.5	12.7
1987	5.1	4.5	14.4	18.1	0	11.1	12.7
1988	5.1	4.7	14.2	17.1	0	15.7	15.8

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increases in the number of services received per enrollee and greater relative use of more expensive services.

TABLE 3—DERIVATION OF MONTHLY ACTUARIAL RATE ENROLLEES AGE 65 AND OVER FINANCING PERIODS ENDING DEC. 31, 1984 THROUGH DEC. 31, 1987

	Financing periods			
	CY 1984	CY 1985	CY 1986	CY 1987
Covered services (at level recognized):				
Physicians' reasonable charges	$28.00	$29.81	$32.05	$34.54
Radiology and pathology	0.99	1.07	1.21	1.38
Outpatient hospital and other institutions	5.88	7.06	8.47	9.95
Home health agencies	0.04	0.04	0.05	0.05
Group practice prepayment plans	1.03	1.21	1.47	1.80
Independent lab	0.79	1.15	1.29	1.47
Total services	36.74	40.33	44.54	49.10
Cost-Sharing:				
Deductible	−2.50	−2.51	−2.51	−2.52
Coinsurance	−6.73	−7.33	−8.14	−9.03
Total benefits	27.51	30.50	33.89	37.64
Administrative expenses	1.17	1.31	1.33	1.38
Incurred expenditures	28.68	31.81	35.21	39.02
Value of interest	−0.96	−1.16	−0.92	−0.35
Contingency margin for projection error and to amortize the surplus or deficit	1.47	0.36	−3.29	−2.86
Monthly actuarial rate	29.20	31.00	31.00	35.80

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES, FINANCING PERIODS ENDING DEC. 31, 1984 THROUGH DEC. 31, 1987

	Financing periods			
	CY 1984	CY 1985	CY 1986	CY 1987
Covered services (at level recognized):				
Physicians' reasonable charges	$33.47	$36.44	$40.10	$44.46
Radiology and pathology	1.02	1.09	1.24	1.42
Outpatient hospital and other institutions	19.73	21.87	24.56	27.41
Home health agencies	0	0	0	0
Group practice prepayment plans	0.26	0.31	0.34	0.39
Independent lab	1.06	1.48	1.67	1.91
Total services	55.54	61.19	67.91	75.59
Cost-Sharing:				
Deductible	−2.26	−2.27	−2.27	−2.26
Coinsurance	−10.54	−11.54	−12.86	−14.36
Total benefits	42.74	47.38	52.78	58.97
Administrative expenses	1.83	2.05	2.09	2.18
Incurred expenditures	44.57	49.43	54.87	61.15
Value of interest	−5.40	−7.47	−7.42	−6.70
Contingency margin for projection error and to amortize the surplus or deficit	15.13	10.74	−6.65	−1.45
Monthly actuarial rate	54.30	52.70	40.80	53.00

TABLE 5.—PROJECTION FACTORS AND THE ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER ALTERNATIVE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DEC. 31, 1987

	This projection 12-month periods ending June 30—			Low cost projection 12-month periods ending June 30—			High cost projection 12-month periods ending June 30—		
	1986	1987	1988	1986	1987	1988	1986	1987	1988
Projection factors (in percent): [1]									
Physician services—fees: [2]									
Aged	0.1	5.1	5.1	−0.4	4.6	4.4	0.6	5.6	5.8
Disabled	0.1	5.1	5.1	−0.4	4.6	4.4	0.6	5.6	5.8
Physician services—Residual: [3]									
Aged	7.3	2.4	2.7	5.8	0.7	0.4	8.8	4.1	5.0
Disabled	8.7	4.5	4.7	4.7	−0.5	−0.3	12.7	9.5	9.7
Outpatient hospital services:									
Aged	22.3	18.2	16.9	17.3	11.2	6.9	27.3	25.2	26.9
Disabled	21.7	18.1	17.1	13.7	8.1	7.1	29.7	28.1	27.1
	As of Dec. 31—								
	1985	1986	1987	1985	1986	1987	1985	1986	1987
Actuarial status (in millions):									
Assets	$10,924	$8,715	$3,379	$10,924	$9,695	$6,588	$10,924	$7,694	(*)
Liabilities	3,237	3,660	4,116	2,949	3,285	3,610	3,528	4,043	4,644
Assets less liabilities	7,687	5,055	−737	7,975	6,410	2,978	7,396	3,651	(*)
Ratio of assets less liabilities to expenditures (in percent)[5]	28.3	16.5	−2.1	30.5	22.5	9.4	26.2	11.1	(*)

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] The trust fund will be depleted by Dec. 31, 1987 under this set of assumptions.
[5] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

(Sections 1839(a)(1), (3), and (4); (e) and (f) of the Social Security Act; 42 U.S.C. 1395r(a) (1), (3), and (4); (e) and (f))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 22, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 26, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-22440 Filed 9-30-86; 4:26 pm]

BILLING CODE 4120-01-M

National Institutes of Health

Division of Research Resources; Meeting of the General Clinical Research Centers Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), November 20-21, 1986, Conference Room 10, Bldg 31, 9000 Rockville Pike, Bethesda, MD 20892.

The meeting will be open to the public on November 21, from 1:30 p.m. to recess during which time there will be comments by the Director, DRR; an update on the GCRC Program; reports on the Clinical Associate Physician Program; the diffusion of the CLINFO System; possible new technologies for GCRCs; and clinical research data management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 20 from 9:00 a.m. to recess and on November 21 from approximately 8:00 a.m. to 1:30 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the Committee members upon request. Dr. Michael A. Oxman, Acting Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B-09, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4390, will furnish program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Dated: September 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-22380 Filed 10-1-86; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Resources; Meeting of the Sucommittee on Animal Resources of the Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, on November 7, 1986, at 8:00 a.m., National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on November 7, 1986 from approximately 1:00 p.m. to approximately 3:00 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 7,

1986 from 8:00 a.m. to approximately 12:00 noon for the review, discussion, and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B13, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Building 31, Room 5B55, Bethesda, Maryland 20892, (301) 496–5175, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: September 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–22378 Filed 10–1–86; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Resources; Meeting of the Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee (MBRSS) of the General Research Support Review Committee (GRSRC), Division of Research Resources (DRR), November 24–25, 1986, at 8:30 a.m., at the National Institutes of Health. The meeting will be held in conference room 9, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to approximately 12:00 p.m. November 24, to discuss policy matters relating to the Minority Biomedical Research Support Program (MBRSP). Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 24, from approximately 1:00 to 5:00 p.m. and from 8:30 a.m. to adjournment on November 25 for the review, discussion, and evaluation of individual grant applications submitted to the Minority Biomedical Research Support Program (MBRSP). These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20892, telephone (301) 496–5545, will provide a summary of the meeting and a roster of members upon request. Dr. Lawrence Alfred, Executive Secretary of the General Research Support Review Committee (GRSRC), Building 31 Room 5B11, Bethesda, Maryland 20892, telephone (301) 496–4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.375, Minority Biomedical Research Support Program, National Institutes of Health)

Dated: September 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–22381 Filed 10–1–86; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute

Cancer Biology-Immunology Contract Review Committee; Meeting Cancellation

Notice of the meeting of the Cancer Biology-Immunology Contract Review Committee, National Cancer Institute, National Institutes of Health, October 17, 1986, published in the **Federal Register**, (51 FR 32848) is hereby cancelled because the number of contract proposals to be reviewed was less than anticipated.

For further Information, please contact Dr. Wilna A. Woods, Executive Secretary, National Cancer Institute, Westwood Building, Room 807, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7153).

Dated: September 26, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–22383 Filed 10–1–86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on October 22, 1986, at the Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the Transplantation Biology and Immunology Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:30 a.m. until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the committees members upon request.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplanation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: September 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-22377 Filed 10-1-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Subcommittee Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the following subcommittees of the Arthritis, Diabetes, and Digestive and Kidney Diseases Special Grants Review Committee (ADDK) of the National Institute of Diabetes and Digestive and Kidney Diseases.

These meetings will open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notices. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Carole Frank, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301-496-6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Subcommittee: ADDK-A
Executive Secretary: Dr. Tommy Broadwater, Westwood Building, Room 404, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496-7531
Date of Meeting: November 14, 1986
Place of Meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: November 14, 8 a.m.—9 a.m.
Agenda: Review of administrative details
Closed: November 14, 9 a.m. to adjournment
Closure Reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.846, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health)

Name of Subcommittee: ADDK-B
Executive Secretary: Dr. Michael K. May, Westwood Building, Room 419, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496-7697
Date of Meeting: November 6-7, 1986
Place of Meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: November 6, 7:30 p.m.—8:30 p.m.
Agenda: Review of administrative details
Closed: November 6, 8:30 p.m. to adjournment, November 7, 8:30 a.m. to adjournment
Closure Reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.847, project grants in diabetes, endocrinology and metabolic research, National Institutes of Health)

Name of Subcommittee: ADDK-C
Executive Secretary: Ms. Tommie Sue Tralka, Westwood Building, Room 406, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496-8830
Date of Meeting: November 13, 1986
Place of Meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: November 13, 8 a.m.—9 a.m.
Agenda: Review of administrative details
Closed: November 13, 9 a.m. to adjournment
Closure Reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.848, project grants in digestive diseases and nutrition research, National Institutes of Health)

Subcommittee Name: ADDK-D
Executive Secretary: Dr. William Elzinga, Westwood Building, Room 421, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496-7546
Date of Meeting: November 17, 1986
Place of Meeting: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814
Open: November 17, 6:30 p.m.—7:30 p.m.
Agenda: Review of administrative details
Closed: November 17, 7:30 p.m. to adjournment
Closure Reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.849, project grants in kidney diseases, urology and hematology research, National Institutes of Health)

Dated: September 19, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-22379 Filed 10-1-86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Services

National Toxicology Program; Availability of Fourth Annual Report on Carcinogens; Call for Public Comments, Fifth Annual Report on Carcinogens

Background

The National Toxicology Program (NTP) hereby announces the availability of the *Fourth Annual Report on Carcinogens*, and requests comments on actions which the Program plans to take with regard to the *Fifth Annual Report on Carcinogens*. The report is a Congressionally-mandated listing of certain carcinogens and is prepared by the National Toxicology Program under delegation from the Secretary, Department of Health and Human Services. The pertinent provision of Pub. L. 93-622 requires an Annual Report which contains "a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed . . ." The law also states that the reports should provide available information on the nature of exposures, the estimated number of persons exposed, and the extent to which the implementation of Federal regulations decreases the risk to public health from exposure to these chemicals.

All previous editions of the report and the proposed new entries for the Fifth Report have undergone a multiphased peer review process involving a variety of Federal research and regulatory agencies. All evidence of carcinogenicity of the proposed new entries has been peer reviewed by scientists of either the International Agency for Research on Cancer (IARC) or the Technical Review Subcommittee of the NTP Board of Scientific Counselors before the chemicals were considered for selection. This notice is being published to provide for appropriate public comment to supplement these selection and review processes.

Proposed Actions

1. The *Fourth Annual Report on Carcinogens* contains 148 entries, which

are listed in Appendix A along with their Chemical Abstracts Service Registry Numbers (CAS) and references.[1] NTP is proposing adding to these entries the twenty-one substances in Appendix B (listed with their CAS numbers and references). The Program seeks public comment on this action, including information and data pertaining to these substances.

2. The Program is considering deleting methyl iodide from the Report. Methyl iodide was included in the Fourth Report because of its designation by the American Council of Governmental Industrial Hygienists, its use in the United States, and its classification by IARC as a "sufficient evidence" animal carcinogen. However, in January 1986, IARC reevaluated methyl iodide and lowered its classification to one of "limited evidence". Based on its review of the evidence, the Program now believes that there may not be sufficient evidence to merit the continued listing of this chemical; comments and the submission of additional data or information are invited.

3. As indicated in Appendix A, the Fourth and previous Reports list a number of processes for which there is an acceptable finding of carcinogenicity, but where no specific carcinogen has been identified. Public commentary on the Fourth Annual Report engendered a general reexamination of these listings. The Program now believes that certain of these processes should be deleted as separate entries because their hazards are likely to be specific to particular times and situations, and the specific exposures are likely to be quite variable. Nevertheless, because of continuing public health concerns, the Program plans to discuss these processes in the *Introduction* of the Fifth and future Reports. Two processes, boot and shoe manufacture and repair and furniture manufacture, are dealt with in this fashion in the Fourth Annual Report.

The additional processes and mixtures proposed for this action are:

- Certain combined chemotherapy for lymphomas
- Hematite underground mining
- Isopropyl alcohol manufacturing (strong-acid process)
- Manufacture of auramine
- Rubber industry (certain occupations)

Separate listings for three processes would be retained in the Fifth Annual Report since the carcinogens of these exposures are likely to vary little with time and place of use:

- Occupational exposure to soots, tars and mineral oils
- Nickel refining
- Coke oven emissions

The public is invited to comment on this action.

4. The Program is considering adding to the *Introduction* section of the Report a new table. In this table would be listed those substances formerly included in the Report which are either known carcinogens or could be reasonably anticipated to be carcinogens, but which, based on available data, do *not now* meet the use/production/exposure criteria as ". . . (carcinogens) to which a significant number of persons residing in the United States are exposed." For the Fifth Report, this new table would contain three entries: cycasin (CAS No. 014901-08-7), aramite (CAS No. 000140-57-8), and N,N-bis(2-chloroethyl)-2-naphthylamine (chlornaphzine) (CAS No. 000494-03-1). In subsequent Reports, this table (and all its former entries) will continue to be printed in the *Introduction* of the Report. Chemicals/substances may be added to this table as new data about use/production/exposure with reference to these chemicals becomes available and is reviewed by the peer review process of the Report. The Program seeks comment on this step, and specifically with regard to the three entries proposed for this table in this edition.

5. The Program seeks information about the use/production/exposure for two chemicals considered for selection for the Fifth Annual Report. The review committees agreed that these two chemicals were carcinogens, but could find no evidence for the possible continued exposure of U.S. citizens to these chemicals. These two chemicals: 4,4'-thiodianiline (CAS No. 00139-65-1) and 3-amino-9-ethylcarbazole hydrochloride (CAS No. 00132-32-1), will not be added to the Fifth Annual Report unless information about their existence as hazards can be provided. Public comment, data, and information about these chemicals is hereby requested.

Submission of Comments on the Fifth Annual Report

Comments on the actions proposed for the *Fifth Annual Report on Carcinogens* will be accepted for a period of 45 days, ending November 17, 1986. Comments should be sent to the National Toxicology Program Public Information Office, MD B2-04, P. O. Box 12233, Research Triangle Park, North Carolina 27709.

Availability of Fourth Annual Report on Carcinogens

Copies of Summary of the *Fourth Annual Report on Carcinogens* are sent to those on the NTP mailing list or may be obtained without charge while supplies last by contacting the National Toxicology Program, Public Information Office, MD B2-04, P. O. Box 12233, Research Triangle Park, North Carolina 27709.

Copies of the *Fourth Annual Report on Carcinogens* are available from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia 2261. Telephone: (703) 487-4560. There is a $46.95 charge for the document plus a $3.00 per order shipping and handling fee. Specify Report No. PB 85-134633.

Dated: September 29, 1986.

David P. Rall,

Director.

[FR Doc. 86-22382 Filed 10-1-86; 8:45 am]

BILLING CODE 4140-01-M

[1] In response to public comment on the *Fourth Annual Report on Carcinogens*, two industrial processes are no longer covered as separate listings, but instead are discussed in the *Introduction*. For the sake of simplicity, all entries are listed in Appendix A, regardless of their location in the report.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise five notices describing systems of records maintained by the Geological Survey. Except as noted below, all changes being published are editorial in nature, and reflect organization, address, and other minor administrative revisions which have occurred since the previous publication of the material in the **Federal Register**. The five notices being revised, which are published in their entirety below, are:

1. INTERIOR/USGS-7 (formerly EGS-7), Personal Property Accountability Records—Interior, GS-7 (previously published on January 7, 1982; 47 FR 861).

2. INTERIOR/USGS-11 (formerly EGS-11), Security—Interior, GS-11 (previously published on January 18, 1983; 48 FR 2213).

3. INTERIOR/USGS-15, Cartographic Information Customer Records—Interior, GS-15 (previously published on July 5, 1985; 50 FR 27695).

4. INTERIOR/USGS-18, Computer Services Users—Interior, GS-18 (previously published on July 5, 1985; 50 FR 27696).

5. INTERIOR-USGS-24 (formerly EGS-24), Employee Work Report Edit

and Individual Employee Production Rates—Interior, GS–24 (previously published on June 23, 1983; 48 FR 28750).

In all five notices, the existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. Also, in all five notices the retention and disposal statements are amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum to Agency Records Officers dated June 11, 1985.

Since these changes do not involve any new or intended use of the information in the systems of records, the notices shall be effective October 2, 1986. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

Dated: September 23, 1986.

INTERIOR/USGS–7

SYSTEM NAME:

Personal Property Accountability Records—Interior-GS–7.

SYSTEM LOCATION:

(1) Branch of Administrative Services, Geological Survey, National Center, Reston, Virginia 22092.

(2) Administrative offices in all or substantially all field locations. (For a listing of specific locations, contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Survey employees who are accountable for government owned controlled property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of assignment of an internal identification number and acknowledgement of receipt by employees. Records of transfers to other accountable employees. Inventory records containing employee social security numbers and duty stations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are to: (a) Maintain control over bureau owned and controlled property; (b) to maintain up-to-date inventory of the property and to record accountability for the property. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are both manual and computerized.

RETRIEVABILITY:

By employee social security number.

SAFEGUARDS:

Access by authorized employees only.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102–02.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Administrative Services, Geological Survey, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual employees.

INTERIOR/USGS

SYSTEM NAME:

Security—Interior, GS–11.

SYSTEM LOCATION:

(1) Office of the Chief Geologist, Geologic Division, Reston, Virginia 22092, (2) Central and Western Regional Offices of the Geologic Division. (Addresses may be obtained from the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geologic Division employees who have been granted security clearances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of Security Clearance, for Division Personnel; contains name, title, organization, office, location, social security number, and place and date of birth and type of security clearance of person being granted access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to keep current records on security clearances in the Geologic Division. Disclosure outside the Department of the Interior may be made: (1) To the Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a

statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual systems maintained in locked files. Automated system maintained in dBASE III file.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with security meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 306–16.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Geologic Division, U.S. Geological Survey, National Center, Mail Shop 912, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/USGS–15

SYSTEM NAME:

Cartographic Information Customer Records-Interior, GS–15.

SYSTEM LOCATION:

(1) National Cartographic Information Center (NCIC), National Mapping Division, Geological Survey, Reston, VA 22092. (2) NCIC Field Offices (for specific locations contact the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested Cartographic Information directly from, or whose requests have been forwarded to the National Cartographic Information Center or its sponsored field centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, address, customer's inquiry, response to inquiry, appropriate accounting entries, and information on debts owed the Bureau as a result of customer orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Executive Order 3206. (2) OMB Circular A–16. (3) 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for reference by Survey and Survey contract employees in processing customer inquiries, orders, and complaints. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license; to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders, correspondence may be recorded on microfilm and key information recorded on magnetic disk or on magnetic tape in some instances.

RETRIEVABILITY:

Stored by account number, indexed by name and zip code.

SAFEGUARDS:

Maintained in GS areas occupied by GS personnel during working hours with building locked and/or guarded during off hours.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102–01.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Cartographic Information Center (NCIC), National Mapping Division, GS, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Same as above. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Customers on whom record is maintained and GS or GS contract information researchers.

INTERIOR/USGS-18

SYSTEM NAME:

Computer Services Users—Interior, GS–18.

SYSTEM LOCATION:

U.S. Geological Survey, Information Systems Division, National Center, Mail Stop 801, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of Computer Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, computer user number, work location, and information on charges for services used as a result of computer services billed to users or customers

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is: (a) To bill computer users; (b) to mail information to computer users. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disk.

RETRIEVABILITY:

By individual user's name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102-01.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Division, U.S. Geological Survey, Mail Stop 801, National Center, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual users of computer services.

INTERIOR/USGS-24

SYSTEM NAME:

Employee Work Report Edit and Individual Employee Production Rates—Interior, GS–24.

SYSTEM LOCATION:

(1) U.S. Geological Survey, National Mapping Division, National Center, Stop 511, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (2) Eastern Mapping Center, National Mapping Division, National Center, Stop 567, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (3) Mid-Continent Mapping Center, National Mapping Division, USGS Building, 1400 Independence Road, Rolla, Missouri 65401. (4) Rocky Mountain Mapping Center, National Mapping Division, Box 25046, Stop 510, Denver, Colorado 80225. (5) Western Mapping Center, National Mapping Division, 345 Middlefield Road, Menlo Park, California 94025. (6) Office of Plans and Production Control, National Center, Stop 580, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (7) EROS Data Center, National Mapping Division, Sioux Falls, South Dakota 57198.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Production employees in Mapping Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, cost and production rates, hours, and miles by individual production employee in each of the offices listed above, as well as GS professionals (geologists, hydrologists, etc.) who conducted research and investigations for which results are published in GS reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3010, 43 U.S.C. 31, 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for analysis of cost and production rate for individual employees and for units of National Mapping Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department or, when represented by the Government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on punched cards, magtape, and disc.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access restricted to authorized persons only from locked storage.

RETENTION AND DISPOSAL:

Retained and disposed of according to Bureau Records Disposition Schedule, RCS/Item 102–01.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief, Branch of Management Systems and Reports, Office of Program Management, National Mapping Division, National Center, Stop 511, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (2) Chief, Program Management Branch, Eastern Mapping Center, National Mapping Division, National Center, Stop 567, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (3) Chief, Branch of Program Management, Mid-Continent Mapping Center, National Mapping Division, USGS Building, 1400 Independence Road, Rolla, Missouri 65401. (4) Chief, Branch of Plans and Production, Rocky Mountain Mapping Center, National Mapping Division, Box 25046, Stop 510, Denver, Colorado 80225. (5) Chief, Branch of Plans and Production, Western Mapping Center, National Mapping Division, 345 Middlefield Road, Menlo Park, California 94025. (6) Chief, Office of Plans and Production Control, National Center, Stop 580, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (7) Systems Analyst, Data Management, EROS Data Center, National Mapping Division, Sioux Falls, South Dakota 57198.

NOTIFICATION PROCEDURE:

A request for notification shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. See 43 CFR 2.61 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager. See 43 CFR 2.71 for submission requirements.

RECORD SOURCE CATEGORIES:

Data from work report prepared by individuals.

[FR Doc. 86–22262 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Indian Affairs

Information Collection Submitted for Review

September 24, 1986

The proposal for the collection of information listed has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirements related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made to the Office of Management and Budget Interior Desk Officer at (202) 395–7340.

Title: Higher Education Annual Report, 25 U.S.C. 13, and 25 CFR Part 40.

Abstract: The Office of Indian Education Programs needs and uses this information for program integrity while performing its mission of educating Native American Indian College students.

Frequency: Annually

Description of Respondents: Indian/Alaskan Native students applying for admission to postsecondary schools.

Annual Response: 1280

Annual Burden Hours: 5,120 Hours

Bureau Clearance Officer: Cathie Martin (202) 343–3577.

Henrietta Whiteman,

Deputy to the Assistant Secretary/Director—Indian Affairs (Indian Education Programs).

[FR Doc. 86–22260 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[CA–010–06–5105–09; Project Number YBFK]

Public Hearings for San Joaquin Valley Pipeline Project, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public hearings for the San Joaquin Valley pipeline draft environmental impact report/environmental impact statement (EIR/EIS).

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and 40 CFR Part 1503 that the State Lands Commission, State of California, and the Bureau of Land Management, Department of the Interior, will be holding public hearings on Thursday, November 6, and on Monday, November 17, 1986 to receive comments on the Draft Environmental Impact Statement for the San Joaquin Valley Pipeline Project.

SUPPLEMENTARY INFORMATION: The public hearings will be on the dates and at the places listed below from 2:00 p.m. to 4:30 p.m. and from 7:00 p.m. to conclusion of comments. On November 6, the hearing will be held in the Kern County Library, Southwest Branch, 8301 Ming Avenue, Bakersfield, California; and on November 17 in the Board of Supervisors Hearing Room, Contra Costa County Administrative Building, 651 Pine Street, Martinez, California.

FOR FURTHER INFORMATION CONTACT: H. Edward Lynch, Jr., Bureau of Land

Management, 800 Truxtun Avenue, Bakersfield, California 93301, (805) 861–4191; or John B. Lien, State Lands Commission, 1807 13th Street, Sacramento, California 95814, (916) 322–7805.

Dated: September 25, 1986.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 86–22293 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–40–M

[AZ–940–06–4220–10; A–21384]

Notice of Conveyance of Public Lands; Arizona

September 24, 1986.

In an exchange of lands made under the provisions of the General Exchange Act of March 20, 1922 (42 Stat. 465), as amended by the Act of February 28, 1925 (43 Stat. 1090), and the Federal Land Policy and Management Act of October 21, 1976 (Pub. L. 94–579; 90 Stat. 2743), the following lands have been conveyed to the United States without the mineral estate:

Gila and Salt River Meridian, Arizona

T. 13 N., R. 12 E.,
Sec. 5, lots 3 and 4, S½NW¼, SE¼
T. 14 N., R. 9 E.,
Sec. 21, lot 1, NE¼, NW¼, S½NW¼, SW¼.
T. 14 N., R. 12 E.,
Sec. 29, lots N½, SW¼;
Sec. 33, NE¼.

The areas described aggregate 1,606.30 acres in Coconino County, according to the official plats of surveys of said land, on file in the Bureau of Land Management.

The real estate value of the selected National Forest Land is $2,131,000 and the real estate value of the offered land is $2,110,000. The loss of Forest Timber Sales because of the conveyance of the selected lands was given an estimated value of $38,700. A cash payment of $59,700 was deposited with the United States Forest Service to equalize values.

Upon acceptance of title to the lands, they became part of the Coconino National Forest and are subject to all the laws, rules, and regulations applicable thereto.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Coconino National Forest, 2323 E. Greenlaw Lane, Flagstaff, Arizona 86001.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–22252 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–32–M

[R–4761]

California; Termination of Proposed Withdrawal and Reservation of Land

September 24, 1986.

Notice of Forest Service, Department of Agriculture, application R–4761 for withdrawal and reservation of the following described land for Soldier Meadow and Granite Creek recreation sites from location and entry under the mining laws (30 U.S.C., Ch. 2) for the reservation and protection of established campgrounds from surface disturbance was published as FR Doc 73–1513 on pages 2472 and 2473 of the issue of January 26, 1973. The applicant has withdrawn its application in its entirety.

Sierra National Forest

Granite Creek Recreation Area

Mount Diablo Meridian

T. 4 S., R. 25 E.,
Sec. 31, N½NE½SE¼SE¼, E½NE¼SE¼, E½W½NE¼SE¼, W½SE¼NE¼, and W½E½SE¼NE¼ (unsurveyed).
Sec. 32, W½SW¼SW¼, W½E½SW¼SW¼, SW¼NW¼SW¼, W½SE¼NW¼SW¼, and W½NW¼NW¼SW¼ (unsurveyed).

Soldier Meadow Recreation Area

T. 4 S., R. 25 E.,
Sec. 32, S½SE¼NE¼, S½N½SE¼NE¼, E½E½SE¼SW¼NE¼ and E½SE¼NE¼SW¼NE¼ (unsurveyed).

The area described aggregates 148.75 acres in Madera County, California. Therefore, pursuant to the regulations contained in 43 CFR 2310.2–1, these lands shall immediately be relieved of the segregative effect of the above mentioned application.

Nancy J. Alex,

Chief, Lands Section Branch of Adjudication and Records.

[FR Doc. 86–22256 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–40–M

[UT–060–06–4212–14; U–58713]

Realty Action; Sale of Public land in San Juan County, UT

September 25, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, U–58713, sale of public land in San Juan County, Utah.

SUMMARY: The following public lands have been examined, and through the development of land-use planning decisions based upon public input, resource considerations, regulations, and Bureau policies, have been found suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at the appraised fair market value of $60,000:

Salt Lake Meridian, Utah

T. 36 S., R. 22 E.,
Section 28: SE¼ NE¼, E½ SE¼.
The described land aggregates 120 acres.

The land is being offered as a direct sale to the Navajo Tribe in accordance with 43 CFR 2711.3–3(a)(5). The sale of this land will result in the termination of several occupancy trespasses. The lands will not be offered for sale until at least sixty (60) days after publication of this notice.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a patent or 270 days from the date of the publication, whichever occurs first.

The publication of this notice in the **Federal Register** constitutes notice to the grazing permittees, the White Mesa Ute Cattle Company and Bar MK Ranches, c/o Lynn Patterson, that their allotments and privileges as affected by this sale will be cancelled effective October 15, 1988.

The Terms and Conditions Applicable to the Sale Are:

1. All minerals, and right of ingress and egress thereto, shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

2. The sale of the lands will be subject to valid existing rights. These include, but are not limited to, Federal oil and gas leases U–23141 and U–49664 and a R.S.2477 road belonging to San Juan County authorized under right-of-way U–53767.

3. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

4. The Navajo Tribe agrees that they will take the real estate subject to the existing grazing use of the White Mesa Ute Cattle Company, holder of grazing authorization No. 6836 and Bar MK Ranches, c/o Lynn Patterson, holder of grazing authorization No. 6831. The rights of the White Mesa Ute Cattle Company and Bar MK Ranches to graze domestic livestock on the real estate according to the conditions and terms of their respective authorizations shall

cease on October 15, 1986. The Navajo Tribe is entitled to receive annual grazing fees from both grazing lessees in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.

Sale Procedures:

The Navajo Tribe, the designated bidder, will be required to submit payment of at least 20 percent ($12,000) of the fair market value by certified check, cashier's check, or money order to the Bureau of Land Management, P.O. Box 970, Moab, Utah 84535 within 45 days of this notice date. The balance of the appraised fair market value (48,000) will be due within 180 days, payable in the same form at the same location. Failure to submit either payment within the time allowed will result in cancellation of the sale offering and forfeiture of deposited monies.

DATES: For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the State Director who may sustain, vacate, or modify this really action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Additional information concerning the land and terms and conditions of sale is available from the Moab District Office, P.O. Box 970, Moab, Utah 84532, or the San Juan Resource Area Office, P.O. Box 7, Monticello, Utah 84535.

Gene Nodine,

District Manager.

[FR Doc. 86-22259 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-DQ-M

[F-14838-A]

Alaska Native Claims Selection; Bethel Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Bethel Native Corporation for approximately 0.06 acre. The lands involved are in the vicinity of Bethel, Alaska, and located within U.S. Survey No. 3230B, Block 18, lot 5.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in The Tundra Drums. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until November 3, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Steven L. Willis,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-22343 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-JA-M

Arizona Wilderness Residuals Environmental Impact Statements

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare two Environmental Impact Statements (EISs) for 37 Wilderness Study Areas (WSAs) in Arizona, California and New Mexico. These WSAs are located in Greenlee, La Paz, Maricopa, Mohave, Yavapai and Yuma Counties, Arizona; Imperial, Riverside, and San Bernardino Counties, California; and Grant County, New Mexico.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act of 1976 (FLPMA) requires that the Secretary of the Interior review those lands with roadless areas of 5,000 acres or more and roadless islands of public lands having wilderness characteristics, and determine the suitability or nonsuitability of each such area for wilderness preservation. The Bureau of Land Management, Arizona, will prepare two EISs for 37 WSAs. These WSAs are the only remaining WSAs under jurisdiction of the Bureau of Land Management, Arizona, that have not undergone the study process. The draft statements will be made available to the public for review and comment in the Fall of 1987.

The environmental impact statements will analyze the suitability of the areas for wilderness designation. The anticipated issues to be analyzed are minerals, crucial habitats, cultural resources and land uses. The EISs will be prepared by an interdisciplinary team composed of wilderness, recreation, minerals, cultural, land use, wildlife and botanical specialists.

Initially public meetings will be held to gather information and help clarify the issues and concerns. Those unable to attend the public meetings are invited to submit written comments. The scope of the EISs will be determined following receipt of this information. After publication of the draft EISs, public hearings will be held.

The public meetings are scheduled as follows:

Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, AR.	Oct. 28, 1986, 7-9 p.m.
Chamber of Commerce, Meeting Room, 333 W. Andy Devine Avenue, Kingman, AR.	Oct. 30, 1986, 7-9 p.m.
Suverkrup Junior High School, Multipurpose Room, 1590 Avenue C, Yuma, AR.	Oct. 30, 1986, 7-9 p.m.
Wallace School Gymnasium (Dome), 1650 Navaho, Parker, AR.	Nov. 3, 1986, 7-9 p.m.
Ruth Brown School, 241 N. 7th, Blythe, CA.	Nov. 3, 1986, 7-9 p.m.
Smoketree Elementary School, Multipurpose Room, 2395 Smoketree Avenue, Lake Havasu City, AZ.	Nov. 5, 1986, 7-9 p.m.

For information concerning the wilderness EISs, contact Bill Carter, Team Leader, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, AZ 85027, Telephone (602) 863-4464 or Hal Hallett, Assistant Team Leader, Yuma District Office, P.O. Box 2390, Yuma, Arizona, 85364-0697, Telephone (602) 726-6300.

Dated: September 25, 1986.

Henri R. Bisson,

Associate District Manager.

[FR Doc. 86-22255 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-32-M

[ORO-935-06-4410-08; GP 6-349]

Environmental Impact Statement; Oregon and Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the proposed Baker Resource Management Plan and final environmental impact statement for the Baker Resource Area, Vale District, Oregon; notice of proposed area of Critical Environmental Concern (ACEC) designation.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, section 202(a) of the Federal Land Policy and Management Act of 1976, and 43 CFR 1600, the Bureau of Land Management has prepared a

proposed Resource Management Plan, known as the Baker RMP, and a final Environmental Impact Statement covering 429,754 acres in 8 counties in northeast Oregon and portions of two counties in southern Washington. Note that this final EIS is an abbreviated document. The draft and final EIS's collectively provide the complete description and analyses of all alternatives that were considered.

The draft Baker RMP/EIS was made available to members of the public in March 1985. Comments on the draft were considered in preparing the final EIS. Any person who participated in the planning process and has an interest which is or may be adversely affected by approval of the Baker RMP may protest. A protest may raise only those issues which were submitted for the record during the planning process.

DATES AND ADDRESSES: Comments for the District Manager's consideration in the development of the decisions should be submitted to the District Manager by November 10, 1986. Copies of the Proposed Plan and Final EIS are available at Baker Resource Area Office, 1550 Dewey, Baker, Oregon 97814 (503) 523–6391, Vale District Office, BLM, 100 East Oregon, Vale, Oregon 97918 (503) 473–3144, Public Affairs BLM, Oregon State Office, 825 NE Multnomah, Portland, Oregon 97208 (503) 231–6277, Public Affairs BLM, Interior Building, 18th and C Streets, Washington, DC 20240 (202) 343–9433. To be timely, protests should be filed with the Director (202) Room 906 Premier Building, Bureau of Land Management, 1600 C Street NW., U.S. Department of the Interior, Washington, DC 20240 before November 10, 1986. The procedures for filing a protest are in the Proposed Plan and in 43 CFR 1610.5–2.

SUPPLEMENTARY INFORMATION: The final EIS summarizes four alternative plans for managing natural resources in the Baker Planning Area over the next 10 years. One alternative has been identified as the proposed Resource Management Plan for the Baker Planning Area.

The alternative plans included in the EIS are designed to resolve the planning issues identified earlier through public involvement. The general topics covered are livestock grazing management, riparian management, wildlife habitat management, land tenure and access, forestry, minerals management, recreation and the management of special areas.

The emphasis of the proposed plan for each of these resource programs are as follows:

1. Forage available for livestock grazing on (section 15) lands in the Blue Mountain and Grande Ronde planning units would remain at 4,258 Animal Unit Months (AUMs).

2. Riparian zones on section 15 lands would be prioritized for management based on their need and potential. Riparian zone management would emphasize cooperative efforts with adjacent federal, state and private adjacent land owners.

3. All forage on 3700 acres within Cooperative Wildlife Management Areas (approximately 350 AUMs) would be allocated to deer and elk on Section 15 areas.

4. A total of 18,307 acres of public lands would be available for disposal pending site-specific study.

5. Nearly all public lands would remain open for mineral exploration and development. A total of 385 acres (less than 1% of the BLM managed surface) would be recommended for withdrawal from mineral entry to protect the Oregon Trail and Keating Riparian Research Natural Area. In addition, 18,955 acres (2%) would be open to oil and gas leasing with a "no surface occupancy" stipulation. A seasonal oil and gas leasing restriction would apply to 201,720 acres (21.5%) due to wildlife habitat considerations.

6. The 10-year sustainable harvest level for forest products would be approximately 27 million board feet from the available commercial forest land base of 25,353 acres.

7. Existing recreation facilities would be maintained or improved, as funding allows, to mitigate damage and sanitary problems associated with increased visitor use. The natural character of BLM lands along the Grande Ronde River, the Snake River and Joseph Creek will be protected pending the resolution of the wild and scenic issue.

8. Approximately 139,160 acres of public land would be limited or closed to off-road vehicle use.

9. Nine Special Management Areas (SMA) would be designated as Areas of Critical Environmental Concern (ACEC) including one Outstanding Natural Area (ONA) and one Research Natural Area (RNA). Unique values within other possible SMAs would be maintained under existing authorities. They are: Oregon Trail (ACEC) 1,495 acres, Homestead (ACEC) 8,537 acres, Grande Ronde River (ACEC) 9,715 acres, Joseph Creek (ACEC/ONA) 3,360 acres, Keating Valley Riparian (ACEC/RNA) 2,173 acres, Powder River Canyon (ACEC) 5,880 acres, Unity Reservoir Bald Eagle Nest Habitat (ACEC) 200 acres, Hunt Mountain (ACEC) 2,230 acres and Sheep Mountain (ACEC) 5,398 acres.

FOR FURTHER INFORMATION CONTACT: Sam Montgomery, Team Leader, Bureau of Land Management, 1550 Dewey, Baker, Oregon 97814, telephone (503) 523–6391.

David Lodzinski,

Acting District Manager.

[FR Doc. 86–22304 Filed 10–1–86; 8:45 am]

BILLING CODE 4310-33-M

[WY-060-06-4322-12]

Casper District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District grazing advisory board meeting.

SUMMARY: The Casper District Grazing Advisory Board will meet at 10:00 a.m. on November 6, 1986. The meeting will convene at the BLM Casper District Office, 951 North Poplar, Casper, Wyoming. The agenda will include: (1) The election of a board chairman and vice-chairman, (2) new member orientation, (3) a follow-up report to the Board from the last meeting of November, 1985 and (4) a discussion on range improvement projects and Allotment Management Plans.

DATE: November 6, 1986, 10:00 a.m.

ADDRESS: To request summary minutes or time on the agenda, contact: Bureau of Land Management, Casper District Office, 951 North Poplar, Casper, WY 82601.

SUPPLEMENTARY INFORMATION: The meeting is held in accordance with Section 3, Executive Order 12548 of February 14, 1986. The meeting is open to the public. Time will be available for public statements to the Board. Interested persons may testify or submit written statements for Board consideration. Anyone wishing to make an oral statement should notify the district manager by November 6, 1986. Depending on the number of persons wishing to make statements, a per person time limit may be imposed by the district manager.

Summary minutes of the Board meeting will be maintained in the district office and will be available for public inspection within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Bruce Daughton, (307) 261–5575.

Dated: September 25, 1986.

James W. Monroe,

District Manager.

[FR Doc. 86–22334 Filed 10–1–86; 8:45 am]

BILLING CODE 4310-22-M

Field Trip; Medford District Advisory Council

Notice is hereby given in accordance with Pub. L. 92–463 that a field trip of the Bureau of Land Management, Medford District Advisory Council will be held October 29, 1986.

On October 29, the field trip will begin at 8:00 a.m., in the parking lot of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The purpose of the field trip is to visit Forestry Intensified Research (FIR) sites on the district. FIR researchers will explain program results of the past several years.

The field trip of the advisory council is open to the public; however, transportation needs must be met by those members of the public who choose to take part in the field trip. Persons wishing to accompany the Advisory Council should be prepared for inclement weather and hikes to some sites on steep slopes may be arduous. Anyone wishing to attend the field trip must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business October 27, 1986. Depending on the number of persons wishing to attend, a limit may be established by the District Manager.

Dated: September 25, 1986.

David A. Jones,

District Manager.

[FR Doc. 86–22336 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–33–M

[WO–150–06–4830–11]

National Public Lands Advisory Council; Call For Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for National Public Lands advisory council.

SUMMARY: The purpose of this notice is to call for nominations for seven memberships on the Bureau of Land Management's National Public Lands Advisory Council.

The Council consists of 21 members. Under the staggered-term arrangement instituted by the Secretary of the Interior in 1981, the terms of seven members on the Council will expire on December 31, 1986. Current Council members may be reappointed or new members may be appointed. Terms of appointment will be for 3 years, beginning January 1, 1987, and expiring December 31, 1989.

Nominees for membership should be well qualified through education, training and experience to give informed and objective advice concerning land use and resource planning for the public lands.

DATE: Nominations should be received by the Bureau of Land Management by October 31, 1986.

ADDRESS: Persons wishing to nominate individuals to serve on the Council should send biographical data that includes name, address, profession, and other relevant information about the candidate's qualifications to: Director (150), Bureau of Land Management, Room 5558 MIB, Department of the Interior, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The function of the Council is to advise the Secretary of the Interior, through the Director, Bureau of Land Management, on policies and programs of a national scope related to the resources and uses of public lands under the jurisdiction of the Bureau of Land Management.

The Council is expected to meet three times a year. Additional meetings may be called by the Director in connection with special needs for advice. Members will serve without salary, but will be reimbursed for travel and per diem expense rates prevailing for Government employees.

FOR FURTHER INFORMATION CONTACT: Karen Slater, Bureau of Land Management (150), Room 5558 MIB, Department of the Interior, Washington, DC 20240. Telephone: (202) 343–2054.

David C. O'Neal,

Acting Director.

September 29, 1986.

[FR Doc. 86–22362 Filed 10–1–86; 8:45 am]

BILLING CODE 4310–84–M

[CO–942–06–4520–12]

Colorado; Filing of Plats of Survey

September 18, 1986.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., September 18, 1986.

The supplemental plat prepared to create new lots 183, 184, and 185 in section 8, T. 1 N., R. 71 W., Sixth Principal Meridian, Colorado, was accepted August 20, 1986.

This supplemental plat was prepared to meet certain administrative needs of this Bureau.

The supplemental plat, creating new lots and areas in the NE¼NE¼ of sec. 19 and in the N½NW¼ of sec. 20, T. 5 S., R. 76 W., Sixth Principal Meridian, Colorado, was accepted August 29, 1986.

This supplemental plat was prepared to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the south boundary and subdivisional lines, T. 10 S., R. 101 W., Sixth Principal Meridian, Colorado, Group No. 808, was accepted September 2, 1986.

The plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of certain sections, T. 1 N., R. 2 W., Ute Meridian, Colorado, Group No. 808, was accepted September 2, 1986.

The plat representing the dependent resurvey of a portion of the south boundary, portions of the east boundary, subdivisional lines, and the subdivision of certain sections; and the survey of the subdivision of certain sections, T. 2 N., R. 2 W., Ute Meridian, Colorado, Group No. 808, was accepted September 2, 1986.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

The plat representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines; the survey of the subdivision of certain sections and the east boundary, Pinon Canyon Maneuver Site, T. 28 S., R. 55 W., Sixth Principal Meridian, Colorado, Group No. 802, was accepted August 21, 1986.

The plat representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines; the survey of the subdivision of certain sections and a portion of the east boundary, Pinon Canyon Maneuver Site, T. 28 S., R. 56 W., Sixth Principal Meridian, Colorado, Group No. 802, was accepted August 21, 1986.

These surveys were executed to meet certain administrative needs of the U.S. Corp of Engineers.

The protraction diagrams of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., November 3, 1986.

Protraction Diagram No. 45, prepared to delineate the remaining unsurveyed public lands in T. 6 S., R. 78 W., Sixth Principal Meridian, Colorado, was accepted August 20, 1986.

Protraction Diagram No. 46, prepared to delineate the remaining unsurveyed public lands in T. 6 S., R. 79 W., Sixth Principal Meridian, Colorado, was accepted August 20, 1986.

These diagrams were prepared to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Jack A. Eaves,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 86-22342 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-JB-M

[WY-060-06-4212-14]

Wyoming; Land Sale Appraisal Update for Lands in Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Land sale appraisal update for lands in Brown, Cherry, Holt, and Sheridan Counties, Nebraska.

SUMMARY: The Bureau of Land Management (BLM) has determined that the land described below is suitable for public sale and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C 1713) requires the BLM to receive fair market value for the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest on the land for sale if the sale would not be consistent with FLPMA or other applicable laws.

These parcels are continuing to be reoffered for sale under competitive procedures as per **Federal Register** Notices which appeared as follows:

Brown and Holt Counties: 49 FR 2538–2550 incl. (January 20, 1984), 49 FR 4043 (February 1, 1984)

Cherry County: 49 FR 42799–42802 incl. (October 24, 1984), 49 FR 44814 (November 9, 1984)

Sheridan County: 50 FR 36497–36498 incl. (September 6, 1985)

The planning document, environmental assessment/land report, and memorandums and letters of Federal, state, and local contacts concerning the sale are available for review at the Bureau of Land Management, Newcastle Resource Area Office. All bids and requests for information should be sent to BLM, Newcastle Resource Area, 1501 Highway 16 Bypass, Newcastle, Wyoming 82701 (phone (307) 746–4453).

Serial No.	Legal description	Acreage	Appraised value
Brown County:			
W-86129	T. 25 N., R. 21 W., 6th P.M., Sec. 1: S½SE¼, Sec. 3: S½SW¼.	160.00	$8,000.000
W-86130	T. 25 N., R. 21 W., 6th P.M., Sec. 9: W½NW¼.	80.00	3,600.00
W-86131	T. 27 N., R. 21 W., 6th P.M., Sec. 22: NW¼SE¼.	40.00	2,200.00
W-86133	T. 25 N., R. 22 W., 6th P.M., Sec. 1: SW¼SW¼.	40.00	2,600.00
W-86134	T. 25 N., R. 22 W., 6th P.M., Sec. 30: NE¼SW¼.	40.00	2,400.00
W-86135	T. 26 N., R. 22 W., 6th P.M., Sec. 5: NW¼SE¼.	40.00	2,000.00
W-86136	T. 25 N., R. 23 W., 6th P.M., Sec. 21: E½SE¼, Sec. 22: S½SW¼.	160.00	8,000.00
W-86138	T. 31 N., R. 24 W., 6th P.M., Sec. 4: SW¼SE¼.	40.00	2,400.00
W-86139	T. 31 N., R. 24 W., 6th P.M., Sec. 14: SW¼SW¼.	40.00	2,000.00
Cherry County:			
W-86162-A	T. 33 N., R. 29 W., 6th P.M., Sec. 3: NE¼SW¼.	40.00	2,200.00
W-86163	T. 25 N., R. 30 W., 6th P.M., Sec. 11: N½NE¼, Sec. 12: W½NW¼.	160.00	8,000.00
W-86167	T. 29 N., R. 34 W., 6th P.M., Sec. 22: SE¼NW¼, NE¼SW¼.	80.00	3,600.00
W-86169	T. 33 N., R. 37 W., 6th P.M., Sec. 13: SE¼NW¼.	40.00	2,000.00
W-86171	T. 26 N., R. 28 W., 6th P.M., Sec. 6: Lot 7.	39.24	2,150.00
Holt County:			
W-86107	T. 28 N., R. 14 W., 6th P.M., Sec. 24: SE¼SE¼.	40.00	2,000.00
W-86108	T. 33 N., R. 14 W., 6th P.M., Sec. 22: NE¼NE¼.	40.00	2,000.00
W-86109	T. 28 N., R. 16 W., 6th P.M., Sec. 19: Lot 3.	22.50	900.00
Sheridan County:			
W-86236	T. 28 N., R. 44 W., 6th P.M., Sec. 11: NE¼SW¼.	40.00	2,000.00
W-86237	T. 35 N., R. 44 W., 6th P.M., Sec. 24: SW¼SE¼.	40.00	2,400.00
W-86238	T. 33 N., R. 45 W., 6th P.M., Sec. 20: SE¼SW¼.	40.00	6,000.00

Dated: September 26, 1986.

James W. Monroe,

District Manager.

[FR Doc. 86-22338 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-22-M

[WY-060-06-4212-14]

Wyoming; Rescheduled Land Sale and Appraisal Update for Lands in Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Reschedule of date appraisal update for land parcels (W-86114 through W-86122 incl., and W-86124 through W-86126 incl.) in Blaine County, Nebraska.

SUMMARY: The Bureau of Land Management (BLM) has determined that the land described below is suitable for public sale and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 USC 1713) requires the BLM to receive fair market value for the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest on the land for sale if the sale would not be consistent with FLPMA or other applicable laws.

These parcels will be offered for sale under the procedures as per **Federal Register** Notices which appeared as follows:

49 FR 2541–2546 incl. (January 20, 1984)
49 FR 4043 (February 1, 1984)
49 FR 7156 (February 27, 1984)

The sale date of March 15, 1984 was postponed [49 FR 9624 (March 14, 1984)] due to a protest and subsequent appeal resolution. This sale date has been rescheduled for Wednesday, November 26, 1986. All affected and interested parties will be contacted.

The planning document, environmental assessment/land report, and memorandums and letters of Federal, state, and local contacts concerning the sale are available for review at the Bureau of Land Management, Newcastle Resource Area Office. All bids and requests for information should be sent to BLM, Newcastle Resource Area, 1501 Highway 16 Bypass, Newcastle, Wyoming 82701 (phone (307) 746–4453).

Serial No.	Legal description	Acreage	Appraised value
Blaine County:			
W-86114	T. 22 N., R. 21 W., 6th P.M., Sec. 2: Lot 3.	40.10	$2,200.00
W-86115	T. 21 N., R. 22 W., 6th P.M., Sec. 13: NE¼SE¼.	40.00	1,800.00
W-86116	T. 23 N., R. 22 W., 6th P.M., Sec. 19: S½SE¼.	80.00	4,800.00
W-86117	T. 23 N., R. 22 W., 6th P.M., Sec. 30: Lot 2, SE¼NW¼.	76.40	3,800.00
W-86118	T. 23 N., R. 22 W., 6th P.M., Sec. 34: SE¼NW¼.	40.00	2,400.00
W-86119	T. 24 N., R. 22 W., 6th P.M., Sec. 26: SE¼SE¼.	40.00	2,200.00
W-86120	T. 24 N., R. 22 W., 6th P.M., Sec. 29: NW¼SW¼.	40.00	2,000.00
W-86121	T. 21 N., R. 23 W., 6th P.M., Sec. 6: Lot 5, SE¼NW¼.	78.57	5,100.00
W-86122	T. 23 N., R. 23 W., 6th P.M., Sec. 23: S½SW¼.	80.00	4,800.00
W-86124	T. 24 N., R. 23 W., 6th P.M., Sec. 27: SE¼NE¼.	40.00	1,800.00
W-86125	T. 23 N., R. 25 W., 6th P.M., Sec. 5: S½NW¼.	80.00	4,000.00
W-86126	T. 24 N., R. 25 W., 6th P.M., Sec. 32: NW¼SW¼.	40.00	2,000.00

Dated: September 26, 1986.

James W. Monroe,

District Manager.

[FR Doc. 86-22337 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-22-M

Geological Survey

Information Collection Submitted for OMB Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Washington DC 20503, Interior Desk Officer, telephone: (202) 395-7340.

Title: Water Data Sources Directory Registration

Abstract: The collection is required to provide a Water Data Sources Directory data base for the coordination of water-data acquisition activities in compliance with OMB Circular A-67. It is used within all governmental, academic, and private levels of the water-data community for national or regional network design and operation and for water resources and environmental management planning. In addition, the data base is required for performing the National Water Data Exchange Referral services for water data provided by the 76 Assistance Centers.

Bureau Form Number: 9-2002-1 through 9-2002-7

Frequency: On occasion

Description of Respondents: State, County, River Basin, Municipality, Local Government, Consultant

Annual Responses: 400

Annual Burden Hours: 180

Bureau Clearance Officer: Geraldine A. Wilson (703) 648-7309

Dated: July 24, 1986.

Philip Cohen,

Chief Hydrologist.

[FR Doc. 86-22329 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-31-M

Information Collection Submitted for OMB Review

The proposal for the Collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Washington DC 20503, Interior Desk Officer, telephone: (202) 395-7340.

Title: Inventory of Hydrologic Data

Abstract: The collection is required to provide a data base for coordination of water-data acquisition activities in compliance with OMB Circular A-67. It is used within all governmental, academic, and private levels of the water-data community for national or regional network design and operation and for water resources and environmental management planning.

Bureau Form Number: 9-1981-1 through 9-1981-9A

Frequency: On occasion

Description of Respondents: Federal, State, County, River Basin, Interstate, Municipality, Local Government

Annual Responses: 4,300

Annual Burden Hours: 1,376

Bureau Clearance Officer: Geraldine A. Wilson (703) 648-7309

July 24, 1986.

Philip Cohen,

Chief Hydrologist.

[FR Doc. 86-22330 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the actvities it proposes to conduct on Lease OCS-G 4727, Block A-127, Galveston Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons above support activities to be conducted from an onshore base located at galveston, Texas.

DATE: The subject DOCD was deemed submitted on September 22, 1986.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for publc review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to

affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 24, 1986.

J. Roger Pearcy,

Regional Director Gulf of Mexico OCS Region.

[FR Doc. 85–22344 Filed 10–1–85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Kerr-McGee Corp.

AGENCY: Minerals Mangement Service.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 7245, Block 320, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on September 24, 1986.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Regiona, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours; 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendment of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 25, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–22345 Filed 10–1–85; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; ODECO Oil & Gas Co.

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS 072 and 073, Blocks 12 and 19, respectively, South Pelto Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on September 23, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Units; Phone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 25, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–22346 Filed 10–1–86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5386, Block 235, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on September 25, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the

Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 26,1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-22347 Filed 10-1-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Public Hearing

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Board of Directors of Overseas Private Investment Corporation (OPIC) on November 13, 1986. The hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATE: The hearing will be held on November 13, 1986 and will begin promptly at 1:00 p.m. Prospective participants must submit to OPIC on or before October 31, 1986 notice of their intent to participate.

ADDRESS: The location of the hearing will be: Interstate Commerce Commission, Hearing Room "C", 12th Street and Constitution Avenue NW., Washington, DC.

Notices and prepared statements should be sent to: Robert C. O'Sullivan, Office of General Counsel, Overseas Private Investment Corporation, Washington, DC 20527.

Procedure:

(a) *Attendance; Participation.* The hearing will be open to the public. However, a person wishing to present his or her views at the hearing must provide OPIC with advance notice on or before October 31, 1986. The notice must include the name, address, and telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) *Prepared Statements.* Any participant wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5:00 p.m. on November 10, 1986. Prepared statements must be typewritten, double spaced and may not exceed thirty (30) pages.

(c) *Duration of Presentations.* Oral presentations will in no event exceed twenty (20) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) *Agenda.* Upon receipt of the required notices, OPIC will draw up an agenda for the hearing setting forth the subject or subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) *Publication of Proceedings.* A verbatim transcript of the hearing will be compiled and a record of the hearing will be published. The record of the hearing will be available to members of the public at the cost of reproduction.

SUPPLEMENTARY INFORMATION: OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries for projects which confer positive developmental benefits upon the project country while avoiding negative effects on the U.S. economy. OPIC's Board of Directors is required by 22 U.S.C. 2191A(b) to hold at least one public hearing each year. This provision was added as one of the 1985 amendments to OPIC's legislation. The November 13, 1986 hearing will be the first public hearing conducted pursuant to this new provision.

FOR FURTHER INFORMATION CONTACT: Robert C. O'Sullivan, Office of General Counsel, Overseas Private Investment Corporation, 1615 M Street NW., Washington, DC 20527 (202/457-7029).

Mildred A. Osowski,

Corporate Secretary.

September 16, 1986.

[FR Doc. 86-22253 Filed 10-1-86; 8:45 am]

BILLING CODE 3210-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire contol of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register** and ICC Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable

provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Volume 389

MC–F–17791, filed September 12, 1986. JEFFERSON LINES, INC. (Jefferson Lines) (1206 Currie Avenue, Minneapolis, MN 55403)—CONTROL—OKLAHOMA TRANSPORTATION COMPANY (OTC) (1206 Exchange Avenue, Oklahoma City, OK 73108). Representative: Elliott Bunce, Esq., Rice, Carpenter and Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Motor common carrier of passengers Jefferson Lines (MC–60325) seeks authority to acquire control, through stock purchase, of motor common carrier of passengers OTC (MC–460).

Jefferson Lines controls K. G. Lines, Inc. (MC–30608), and is controlled by noncarrier The Jefferson Transportation Group, Inc. (Jefferson Group), which also controls broker of passenger transportation Jefferson Tours and Travel, Inc. (MC–130016), and motor common carrier of passengers Midland Lines, Inc. (Midland) (MC–44770). Midland, in No. MC–F–17792, is seeking authority to acquire control of MK&O Coach Lines, Inc.

Jefferson Group is controlled by noncarrier The Jefferson Company, Inc., the stock of which is owned by Bruck & Co. (Zelle Estate), Mary Susan Zelle Reed, Louis N. Zelle, Charles A. Zelle, and 38 other stockholders, none of whom holds more than 3 percent of the outstanding stock.

Decided: September 23, 1986.

By the Commission, Motor Carrier Board, Members Hartley, Barnes and Thomas.

Volume OP2–504

MC–F–17792, filed September 12, 1986. MIDLAND LINES, INC. (Midland) (1206 Currie Avenue, Minneapolis, MN 55403)—CONTROL—MK&O COACH LINES, INC. (MK&O) (321 South Cincinnati, Tulsa, OK 74120). Representative: Elliott Bunce, Esq., Rice, Carpenter and Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. Motor common carrier of passengers Midland (MC–4470) seeks authority to acquire control, through stock purchase, of motor common carrier of passengers MK&O (MC–36364).

Midland is controlled by noncarrier The Jefferson Transportation Group, Inc. (Jefferson Group), which also controls broker of passenger transportation Jefferson Tours and Travel, Inc. (MC–130016), and motor common carrier of passengers Jefferson Lines, Inc. (Jefferson Lines) (MC–60325). Jefferson Lines controls K.G. Lines, Inc., and, in No. MC–F–17791, is seeking authority to acquire control of Oklahoma Transportation Company (MC–460).

Jefferson Group is controlled by noncarrier The Jefferson Company, Inc., the stock of which is owned by Bruck & Co. (Zelle Estate), Mary Susan Zelle Reed, Louis N. Zelle, Charles A. Zelle, and 38 other stockholders, none of whom holds more than 3 percent of the outstanding stock.

Decided: September 23, 1986.

By the Commission, Jane Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86–22290 Filed 10–1–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 183X)]

CSX Transportation, Inc.; Exemption; Abandonment in Halifax County, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc. of a 0.72-mile segment of the Roanoke Rapids Spur in Halifax County, NC, subject to standard labor protective conditions.

DATES: This exemption will be effective on November 3, 1986. Petitions for stay must be filed by October 13, 1986, and petitions for reconsideration must be filed by October 22, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 183X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 24, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary

[FR Doc. 86–22288 Filed 10–1–86; 8:45 am]

BILLING CODE 7035–02–M

DEPARTMENT OF LABOR

Task Force on Economic Adjustment and Worker Dislocation; Meeting

Notice is hereby given that the Task Force on Economic Adjustment and Worker Dislocation will hold its fifth meeting at 10:00 a.m. on Thursday, October 16, 1986, in Room C–5515—Seminar Room 6, 200 Constitution Avenue NW., Washington, DC 20210. The public is invited to attend.

The purpose of the meeting is to further discuss a draft outline of the Task Force report.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Holmes, U.S. Department of Labor, Room S–5014, Washington, DC 20210 (202) 523–7571.

Signed at Washington, DC, this Friday of September 26, 1986.

Michael E. Baroody,

Assistant Secretary for Policy.

[FR Doc. 86–22257 Filed 10–1–86; 4:57 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-456-OL, 50-457-OL; ASLBP No. 79-410-03-OL]

Commonwealth Edison Co.; (Braidwood Nuclear Power Station, Units 1 and 2); Reconvening of Hearing

September 25, 1986

Atomic Safety and Licensing Board. Before Administrative Judges: Herbert Grossman, Chairman, Dr. A. Dixon Callihan, Dr. Richard F. Cole.

Please take notice that at 2:00 p.m. on September 30, 1986, the evidentiary hearing in the matter of the Braidwood Station will reconvene at the Federal Building, in Courtroom #1919, 219 South Dearborn Street, Chicago, IL 60604, and continue on weekdays, unless otherwise stated.

The public in invited to attend all hearing sessions.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 86-22325 Filed 10-1-86; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials; Nissho Iwai American Corp.

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The information concerning this application follows.

NRC Export Applications

Name of applicant, Date of application, Date received, Application No.	Material type	Material in Kilograms		End use	Country of destination
		Total element	Total isotope		
Nissho Iwai American Corp., 08-18-86, 08-22-86, XSNMO1778, Amend. 04.	Enriched Uranium.	Add'l 50.93.....	Add'l 22.92.....	Add'l fuel for JMTR Research Reactor.	Japan.

Dated this 25th day of September 1986 at Bethesda, Maryland.

For The Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 86-22366 Filed 10-1-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Transfer of Control of License

Notice is hereby given that the United States Nuclear Regulatory Commission (Commission) is considering approval under 10 CFR 50.80 of the tranfer of control of the license for Point Beach Nuclear Plant Units 1 and 2 to Wisconsin Energy Corporation, a holding company. The current licensee, Wisconsin Electric Power Company (WEPCO) will remain as holder of the license. By letter dated August 5, 1986, WEPCO informed the Commission that Wisconsin Energy Corporation has filed its Registration Statement with the Securities and Exchange Commission and that under the laws of the State of Wisconsin, the approval of the Public Service Commission of Wisconsin was obtained on May 27, 1986 for formation of the holding company. That letter also advised the Commission that Wisconsin Energy Corporation, will become the sole holder for WEPCO stock, and the current holders of shares of WEPCO common stock will become holders of shares of the common stock of Wisconsin Energy Corporation, on a share-for-share basis.

Pursuant to 10 CFR 50.80 the Commission may approve the transfer of control of a license, after notice to interested persons, upon the Commission's determination that the holder of the license following the tranfer of control is qualified to have the control of the license and the transfer of the control is otherwise consistent with applicable provisions of law, regulations and orders of the Commission.

For further details with respect to the subject transfer, see the letter from WEPCO, of August 5, 1986 which is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Bethesda, Maryland, this 25th day of September 1986.

For the Nuclear Regulatory Commission.

Eileen M. McKenna,

Acting Director, PWR Project Directorate # 1, Division of PWR Licensing-A.

[FR Doc. 86-22365 Filed 10-1-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23645; File No. SR-NASD-86-20]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on August 14, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to amend its Board of Governors' Interpretation with respect to "Free Riding and Withholding" under Article III, section 1 of the NASD's Rules of Fair Practice. The proposal provides exemptive releif from the Interpretation's restrictions on the purchase of "hot issue" securities for persons who purchase publicly offered securities issued in connection with the conversion of savings and loan associations and certain other organizations form a mutual to a stock form of ownership, if those persons are eligible to purchase under the regulations of the Federal Home Loan Bank Board or other agency authorized to regulate the conversion process.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23538, August 15, 1986) and by

publication in the **Federal Register** (51 FR 30155, August 22, 1986). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: September 25, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-22300 Filed 9-29-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15325; (File No. 812-6402)]

Daily Money Fund, et al.; Application for Exemption

September 25, 1986.

Notice is hereby given that Daily Money Fund, Equity Portfolio: Growth, Equity Portfolio: Income, Fidelity Cash Reserves, Fidelity Congress Street Fund, Fidelity Contrafund, Fidelity Corporate Trust, Fidelity Daily Income Trust, Fidelity Destiny Portfolios, Fidelity Discover Fund, Fidelity Equity-Income Fund, Fidelity Exchange Fund, Fidelity Fund, Fidelity Flexible Bond Fund, Fidelity Freedom Fund, Fidelity High Income Fund, Fidelity Income Fund, Fidelity Magellan Fund, Fidelity Mercury Fund, Fidelity Money Market Trust, Fidelity Overseas Fund, Fidelity Puritan Fund, Fidelity Securities Fund, Fidelity Select Portfolios, Fidelity Special Situation Fund, Fidelity Thrift Trust, Fidelity Trend Fund, Financial Reserves Fund, Fixed-Income Portfolios, Institutional Cash Portfolios, The North Carolina Cash Management Trust, Variable Insurance products Fund, and Zero Coupon Bond Fund ("Applicants" or "Funds"), 82 Devonshire Street, Boston, Massachusetts 02109, each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, management investment company, filed an application on June 5, 1986, and an amendment thereto on September 16, 1986, requesting an order of the Commission pursuant to section 6(c) of the Act, exempting Applicant from the provisions of Section 12(d)(3) of the Act to the extent necessarry to permit the Funds, consistent with their investment policies, to invest in the equity and convertible debt securities of major Japanese securities companies which are listed and publicly traded on the Tokyo Stock Exchange ("TSE"), (First Section) ("TSE1"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of its relevant provisions.

According to the application, Fidelity Management & Research Company is the investment adviser to each of the Funds. Certain Applicants, such as Fidelity Overseas Fund, invest primarily or excusively in foreign issuers, and all Applicants may invest in the securities of broker-dealers and do so to various extents. Applicants state that each Fund invests and will continue to invest in the securities of foreign companies, including foreign securities companies, only to the extent permitted by its investment policies.

Applicants propose that the Funds invest in the equity and convertible debt securities of major Japanese securities companies whose securities are listed and publicly traded on the TSE 1, which currently are: Cosmo Securities Co., Ltd., Dai-ichi Securities Co., Ltd., Daiwa Securities Co., Ltd., New Japan Securities Co., Ltd., The Nikko Securities Co., Ltd., The Nippon Kangyo Kakumaru Securites Co., Ltd., The Nomura Securities Co., Ltd., Okasan Securities Co., Ltd., Sanyo Securities Co., Ltd., Wako Securities Co., Ltd., Yamaichi Securities Co., Ltd., and Yamatane Securities Co., Ltd., (collectively, the "Securities Companies").

Applicants represent that Japanese companies with publicly issued securities, including the Securities Companies, are required by the Japanese Securities and Exchange Law ("Law") to file with the Minister of Finance ("Minister") annual reports containing information relating to the company's objectives, stated capital, securities issued and financial position, the nature and state of its business operations, and such other infoamtion as the Minster may request. Amended reports must be filed with the Minister upon the occurence of any material change of information. According to the application, the Law further requires that the financial statements contained in annual reports be certifed by a certified public accountant or an incorporated accounting firm which has no special interest in the reporting corporation. According to Applicants, the Securities Companies also publish their annual reports in English.

Applicants state that Japanese securities companies are subject to regulation as broker-dealers under separate provisions of the the Law. Before a company may act as a broker, dealer, or underwriter of securites, or handle a public offering, it must apply for and obtain a license from the Minister. Applicants state that before issuing a license, the Minister must be satisfied that such company has sufficient financial resources, knowledge, and experience to conduct the proposed buisness profitably and farily, and that the proposed business is necessary and appropriate in light of economic conditions, such as the number of existing securities companies and the state of securities trading in the area. According to Applicants, the Law authorizes the Minister to cancel a license if the securities company violates a statutory provisions, administrative order, or a condition attached to its license, or if it is threatened with insolvency.

Applicants further state that Japanese securities companies may not engage in businesses other than those that are securities related without approval by the Minister and may not act as both principal and broker in the same transaction. Applicants represent that all securities companies must file business reports with the Minister within two months after the close of the business year, and if the Minister deems it necessary and appropriate in the public interest or for the protection of investors, he may cause the inspection, without notice, of the business condition, financial position, accounting, books and documents or other articles of the securities corporation. According to Applicants, the Minister may also order a securities company to alter its method of business or take other corrective measures, in the event that the company's ratio of total debt to net assets is excessive or that the company's borrowing or lending position is unsound or as necessary in the public interest or for the protection of investors.

In terms of both the total dollar transaction volume and the total market value of equity shares of domestic companies listed, Applicants state the TSE ranks second in the world. Listing criteria for the more seasoned listed stock assigned to TSE 1 include: at least 20 million listed shares; capital stock of Y1 billion; 3,000 shareholders holding no less than 500 nor as much as 50,000 shares; an average monthly trading volume for three months of 200,000 shares; and, dividends for each of the last three years of Y5 per share.

Applicants represent that the TSE listing requirements are comparable, in terms of share distribution, total market value and earning power, to those imposed by the New York and American Stock Exchanges, by the NASD for eligibility for the NASDAQ system and by the Board of Governors of the Federal Reserve System ("Board") for inclusion on the OTC margin list.

Section 12(d)(3) of the Act prohibits registered investment companies from acquiring any interest in the business of a broker, dealer, or underwriter. Rule 12d3–1 under the Act provides generally that a registered investment company may purchase securities issued by companies deriving more than 15% of their gross revenue from securities related activities provided certain quantitative and qualitative conditions are satisfied. The "quantitative" requirements are met if, immediately after the acquisition, the investment company has not invested more than 5% of the value of its total assets in the target company's securities and does not own more than 5% of the outstanding equity securities of the class acquired, or more than 10% of the outstanding principal amount of the issuer's debt securities. The "qualitative" condition of Rule 12d3–1 requires that the stock acquired be a "margin security" as defined in Regulation T promulgated by the Board which includes any security listed on a national securities exchange, or an OTC security designed as a margin stock by the Board. Because only securities the principal market for which are in the United States can qualify as "margin securities" as required by Regulation T, the securities of the Securities Companies could not be acquired by Applicant within the latitude afforded by Rule 12d3–1, without an exemption from section 12(d)(3) of the Act.

In support of this exemptive request, Applicants state that, with the one exception noted above, each of the conditions set forth in Rule 12d3–1 are satisfied under its proposal to purchase shares of the Securities Companies. In particular, Applicants assert that the availability of annual reports will enable Applicants to calculate the percentage limitations under Rule 12d3–1. Applicants state that the Funds may currently, consistent with Rule 12d3–1 and their respective investment policies and restrictions, purchase debt securities of foreign broker-dealers. Applicants agree, however, to purchase only those convertible debt securities of the Securities Companies that satisfy the qualitative requirements of Rule 12d3–1(b)(5), where the underlying equity securities thereto are listed on the TSE 1. Applicants state that the Securities Companies are, in terms of size and soundness of investment, comparable to U.S. securities firms which meet the requirement of Rule 12d3–1(b)(4). Applicants represent that none of the Securities Companies are the investment adviser, promoter, or principal underwriter of any of the Applicants nor are they affiliated with Applicants' investment adviser, promoter or principal underwriter. Therefore, it is stated, Rule 12d3–1 will also be complied with in this regard.

Finally, Applicants represent that the boards of directors of the Funds have made or will make a specific business decision to permit Funds to purchase, as the Applicants' investment adviser sees fit, the equity and convertible debt securities of the Securities Companies and that such purchases will benefit the Funds. Applicants conclude that the public information available about the Securities Companies is equal to the information concerning other issuers listed on the TSE in which the Funds may freely invest, and that the adviser to the Funds is knowledgeable and experienced in foreign market investments.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 20, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–22301 Filed 10–1–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24203]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 25, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 20, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power & Light Company (70–7230)

Mississippi Power and Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi 39215–1640, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment to its declaration in this matter with this Commission pursuant to sections 6(a) and 7 of the Act and Rule 50 thereunder.

By order dated May 28, 1986, the Commission authorized MP&L to issue and sell 350,000 shares of its Preferred Stock, Cumulative, $100 par value ("New Preferred Stock"), which shares were sold on July 31, 1986. MP&L now proposes to issue and sell an additional 350,000 shares of New Preferred Stock ("Additional Shares"), in one or more sales from time to time not later than December 31, 1987, subject to Rule 50 under the Act as modified by HCAR No.

22623. MP&L may include provisions for an adjustable dividend rate for one or more series of the Additional Shares, and a sinking fund.

Central Power and Light Company et al. (70–7284)

Central Power and Light Company, 120 North Chaparral Street, Corpus Christi, Texas 78401, Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74102, Southwestern Electric Power Company, P.O. Box 21106, Shreveport, Louisiana 71156, and West Texas Utilities Company, 301 Cypress, Abilene, Texas 79601, (collectively, the "CSW Companies") subsidiaries of Central and South West Corporation, a registered holding company, have filed an application-declaration pursuant to sections 9(a), 10, and 12(c) of the Act and Rule 42 thereunder.

The CSW Companies propose through December 31, 1988, to acquire (and retire) outstanding shares of their preferred stock and first mortgage bonds in open market and negotiated transactions at prices not exceeding the then current general redemption prices for such securities. Such acquisitions for each company will not exceed 20% of the par value of the preferred stock and 10% of the aggrevated principal amount of the first mortgage bonds, respectively, issued and outstanding as of September 30, 1986. Acquisitions would be made only if the issuer of the security in question determined that it would be in the best interest of the issuer to do so, based on, among other things, the interest or dividend rates of the security, the issuer's financing plans and capital structure, and the issuer's then current cash position. Such purchases will be made with internally generated funds or short-term borrowings.

New England Power Company (70–7285)

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts 01582, an electric utility subsidiary of New England Electric System, a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder.

NEP proposes to execute and deliver one or more loan agreements with the Industrial Development Authority of the State of New Hampshire and the Connecticut Development Authority in connection with the issue by one or both of such authorities on behalf of NEP of up to $50 million aggregate principal amount of pollution control revenue bonds with a maturity of less than one year. Any bonds issued on NEP's behalf will be sold by the issuing authority through arrangements negotiated with underwriters. The bonds will be backed by NEP's promise to make payments to the issuing authority which correspond in both timing and amount to the payments the issuing authority is obligated to make to bondholders. NEP has requested the option to roll over the short-term finacing for a period not exceeding 3 years, subject to Commission approval. NEP has requested an exception to competitive bidding pursuant to Rule 50(a)(5) in connection with its execution and delivery of the loan agreements.

System Energy Resources, Inc. (70–7299)

System Energy Resources, Inc. ("SERI"), P.O. Box 61000, New Orleans, Louisiana 70161, a subsidiary of Middle South Utilities, Inc. ("MSU"), a registered holding company, has filed a declaration with this Commission pursuant to section 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

SERI proposes to amend its Articles of Incorporation, as amended, to provide for a new class of cumulative preferred stock not exceeding 20 million shares, no par value, with an aggregate value not in excess of $500 million ("Preferred Stock"). SERI further proposes to issue and sell not to exceed $200 million aggregate amount of Preferred Stock to be issued in one or more series from time to time through August 31, 1988 ("New Stock"). Except in one respect the terms of the Preferred Stock will adhere to the Commission's Statement of Policy on Preferred Stock (HCAR No. 13106, February 16, 1956, as amended by Release No. 16758, June 22, 1970) ("Statement"). SERI requests an exception from the Statement regarding the required ratio of "gross income" to interest and dividends for the issuance of additional Preferred Stock. The Statement requires a ratio of 1½ times. SERI seeks permission to employ a ratio of 1¼ times, subject to the Commission granting approval for the use of such lower ratio on a case-by-case basis.

Additionally, SERI proposes to split its authorized common stock on a 100 for 1 basis prior to issuing the New Stock, in order to have the relative voting powers of the two classes of stock more fairly reflect the relative contributions of each class of stock, and the expected book values of each share of each class. Following the split, SERI would have 100 million shares of common stock authorized and 78,935,000 shares of common stock outstanding.

Due to the legal, regulatory and financial complexities surrounding the sale of the preferred stock, SERI proposes that the Commission grant it an exception from the competitive bidding requirements of Rule 50 under the Act so that SERI may negotiate the terms of any series of New Stock and arrange for the sale thereof through negotiated public offering(s) or private placement(s). SERI proposes to retain an investment banker(s) to assist in structuring the terms of the New Stock and to arrange for the sale thereof. The exception from the competitive bidding requirements of Rule 50 under the Act is hereby granted, and SERI may begin negotiations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–22371 Filed 10–1–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15327; (File No. 812–6417)]

Saastopankkien Keskus-Osake-Pankki; Notice of Application

September 25, 1986.

Notice is hereby given that Saastopankkien Keskus-Osake-Pankki ("Applicant"), c/o Thomas H. Bell, Esq., Simpson Thacher & Bartlett, One Battery Park Plaza, New York, New York 10004, filed an application on June 23, 1986, for a Commission order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting it and a proposed subsidary ("Subsidiary") from all provisions of the Act in connection with the issuance and sale of commercial paper notes and other debt securities in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the Securities Act of 1933 ("Securities Act") and the rules thereunder for the text of the applicable provisions.

Applicant states that it acts as the central bank for savings banks in Finland and also operates as a commercial bank offering a full range of banking services. Applicant further states that it promotes, supports and balances the liquidity of the Finnish savings banks, manages and develops their payment transactions, acts as their clearing center and handles their foreign banking and trade financing business. As a commercial bank, Applicant states that it is primarily engaged in the receipt of deposits and the making of loans. Applicant represents that it also engages, directly or through subsidiaries, in other banking and bank-

related activities, such as fiduciary activities, payment transmissions, foreign exchange dealings, syndications of loans, mortgage banking, installment purchase financing, leasing and factoring. Applicant conducts its international banking activities through a worldwide correspondent bank network.

According to Applicant, at December 31, 1985, it was the fourth largest commercial bank in Finland. On a consolidated basis stated in United States dollars at the conversion rate on December 31, 1985 of 5.4170 Finmarks to the dollar, Applicant represents that it had assets of approximately $4040 million, deposits of approximately $1929 million, and share capital and reserves of approximately $257 million. Further, Applicant states that at that date, its loans represented approximately 72.4% ($2926 million), and its investment in bonds and stocks and receivables from other banks represented approximately 10.9% ($442 million) of its total assets, respectively.

Applicant states that it is subject to a system of extensive supervision and regulatory control by Finnish authorities which is comparable to that which United States banks are subject. Applicant also states that it is subject to supervision by the Bank Inspectorate, which in turn is responsible to the Ministry of Finance. The Bank Inspectorate makes periodic formal inspections, gives directives in various matters and may take measures to prevent unlawful or undesirable activities. Applicant must meet minimum liquidity and solvency requirements and is also subject to constraints on non-banking operations and extensions of credit. Applicant must also participate in a private industry security fund which is supervised by the Ministry of Finance.

Applicant represents that Subsidiary will be incorporated under the laws of Delaware and all of its outstanding capital stock will be owned by Applicant. Further, Applicant represents that Subsidiary's sole business purpose will be to issue commercial paper notes and other debt obligations and provide the proceeds thereof to Applicant.

Applicant proposes to issue and sell, or cause Subsidiary to issue and sell, in the United States unsecured prime quality commercial paper notes ("Notes") denominated in United States dollars. The Notes will be sold in the minimum denomination of $100,000, in an outstanding face amount not intended to exceed $150 million at any one time, although the aggregate outstanding face amount of the Notes may increase above such amount in the future. Applicant represents that the Notes will either be issued and sold directly by Applicant or be issued and sold by Subsidiary with the unconditional guarantee of Applicant as to the payment of principal and premium, if any, and interest.

Applicant represents that the Notes will be offered through one or more commercial paper dealers to institutional investors and individuals who normally purchase commercial paper notes, which will enable the Notes to qualify for the exemption from the registration requirements of the Securities Act provided by section 3(a)(3) thereof. Applicant undertakes to ensure that each offeree will be provided with a memorandum ("Memorandum") which will briefly describe the business of Applicant and contain its most recent publicly available audited financial statements. Applicant represents that the Memorandum will describe any material differences between the accounting principles employed by Applicant and by United States banks. Further, Applicant represents that the Memorandum will be at least as comprehensive as those customarily used by United States bank holding companies and will be updated periodically to reflect material changes in the financial condition of Applicant.

Applicant and Subsidiary may offer other securities ("Securities") in the future, such as debt securities, but not including shares of their capital stock, for sale in the United States. Any Securities issued by Subsidiary will also be unconditionally guaranteed by Applicant as to the payment of principal and premium, if any, and interest. Applicant undertakes that any offering of Securities in the United States will be done on the basis of disclosure documents at least as comprehensive as those customarily used by United States banks and bank holding companies in offering similar securities under similar circumstances and undertakes to ensure that each offeree of any Securities will be provided with such disclosure documents. Applicant also undertakes that in the case of any future offering of the Securities made pursuant to a registration statement under the Securities Act, disclosure documents will be furnished to such persons and in such manner as may be required by the Securities Act.

Applicant states that neither Applicant nor Subsidiary will issue and sell the Notes until it has received on opinion of United States legal counsel that the Notes will be exempt under section 3(a)(3) of the Securities Act. Applicant states that it does not request Commission review or approval of such opinion, and the Commission expresses no opinion as to the availability of any such exemption. Applicant represents that the Notes and all future issues of debt securities will have received prior to issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that United States counsel will have certified that such rating has been received; provided, however, that no such rating will be obtained if in the opinion of such counsel, having considered the doctrine of integration under Rule 502 of the Securities Act, exemption from registration is available under section 4(2) of the Securities Act or Regulation D thereunder.

Applicant will expressly consent to the enforcement of its guarantees of the Notes and Securities directly by the holders thereof against it without first proceeding against Subsidiary. The obligations of Applicant with respect to the Notes will rank *pari passu* among themselves and equally with all other unsecured indebtedness (including liabilities to depositors but excluding subordinated debt of Applicant which will rank below such obligations) and will rank prior to the equity securities of Applicant.

Applicant represents that it will appoint the Commercial Secretary and Vice Consul of Finland in the City and State of New York as its agent to accept any process which may be served on Applicant or Subsidiary in any action based on the Notes or Securities or Applicant's guarantees thereof and instituted by any holder thereof in any state or federal court. Such appointment and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes and Securities have been paid. Further, Applicant represents that it and Subsidiary will expressly submit to the jurisdiction of any state or federal court in the City and State of New York with respect to any such action. Applicant and Subsidiary will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of offering of the Notes or Securities, or otherwise in connection with the Notes or Securities.

Applicant asserts that granting the requested exemption is consistent with the protection of investors and purposes of the Act and is appropriate in the public interest. Applicant argues that its activities are extensively regulated by Finnish authorities. Further, Applicant consent to any order granting the application being expressly conditioned

upon compliance with the undertakings described in the application. Applicant also asserts that absent an exemption, it would be precluded for selling securities in the United States, contravening the public policy expressed in the International Bank Act of 1978 of placing United States and foreign banks on a basis of competitive equality in their transactions in the United States. Finally, Applicant contends that since Subsidiary's sole business purpose will be to issue and sell commercial paper notes and other debt securities and provide the proceeds thereof to Applicant, and that the obligations of Subsidiary will in effect be the obligations of Applicant, the same rationale for exempting Applicant from the provisions of the Act applies to Subsidiary.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 16, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-22370 Filed 10-1-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Reform Observation Panel for UNESCO; Partially Closed Meeting

The Reform Observation Panel for UNESCO will meet on October 21, 1986 in Room 3524 of the Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 2:00 p.m.

The principal agenda items will be:

—Assessment of the results of the 124th and 125th sessions of the UNESCO Executive Board;

—Report on the progress of reform at UNESCO during 1986.

The purpose of the meeting will be to discuss the progress of reform at the 124th and 125th sessions of the UNESCO Executive Board and the possibilities of continued reform of the Organization. Because the meeting will include a classified briefing by Department of State officers and discussion of documents classified pursuant to Executive Order 12356, a determination has been made that the meeting be closed in part to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552(b), (c)(1) and (c)(9)(b). The initial portion of the meeting will be open to the public until approximately 3:00 p.m.

Access to the Department of State is controlled for security reasons. Members of the public who wish to attend the open portion of the meeting or who have requests for further information on the meeting should be directed to the Panel's Executive Secretary: Mr. Raymond E. Wanner, Room 5331, Department of State, 2201 C Street, NW., Washington, DC 20520, (202) 647-6882.

Dated: September 18, 1986.

Raymond E. Wanner,

Executive Secretary, Reform Observation Panel.

[FR Doc. 86-22284 Filed 10-1-86; 8:45 am]

BILLING CODE 4710-19-M

[Public Notice CM-8/1008]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Thursday, October 30, 1986 at 9:30 a.m. in Room 1105, Department of State, 2201 C Street, NW., Washington, DC.

Study Group A deals with international telecommunications policy and services.

The agenda for this meeting is as follows:

a. Debriefing of most recent CCITT Study Group III meeting (October, Geneva); and

b. Make final preparations and review U.S. contributions for the November/December meetings of CCITT Study Groups I and VIII.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, D.C.; telephone (202) 647-6700. All attendees must use the C Street entrance to the building.

Dated: September 22, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-22285 Filed 10-1-86; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/1009]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Radio Communications; Meetings

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct open meetings at 0930 on October 16 and November 20, 1986, room 9230 of the Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

The purpose of the meetings is to prepare position documents for the Thirty-second Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London during December 1986. In particular the working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite EPIRBs
Preparations for the ITU WARC for Mobile
Telecommunications
Marine Safety Broadcast

For further information contact LT McDannold, U.S. Coast Guard Headquarters (G-TTS-1/63), 2100 2nd Street, SW., Washington, DC 20593. Telephone: (202) 267-1258.

Dated: September 19, 1986.

Richard C. Scissors,

Chairman, Shipping Coordinating Committee

[FR Doc. 86-22286 Filed 10-1-86; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/1000]

Advisory Committee on International Law; Partially Closed Meeting

The 1st meeting of the subject Advisory Committee will take place at

10:00 a.m. on Monday, October 6, 1986, in Room 1105 of the Department of State, 2201 C Street, NW, Washington, DC. The morning session will not be open to the public; the afternoon session (3:00 p.m. to 4:30 p.m.) will be open to the public, up to the capacity of the meeting room.

The meeting will focus on policy and legal issues relating to the future relationship of the United States to the International Court of Justice at The Hague. As the morning session will include discussion of classified material, it has been closed pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and 5 U.S.C. 552b (c)(9)(B). The disclosure of classified material and related discussions could adversely affect the foreign relations interests of the United States. The morning session will include classified briefings and examination and discussion of documents classified pursuant to Executive Order 12356.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the general public planning to attend the afternoon session should, prior to October 3, notify the Office of the Assistant Legal Adviser for United Nations Affairs (L/UNA), Department of State, Washington, DC 20520 (telephone: (202) 647–6771) of their name, affiliation, address and telephone number.

Dated: September 12, 1986.

Abraham D. Sofaer,

Legal Adviser.

[FR Doc. 86–22339 Filed 10–1–86; 8:45 am]

BILLING CODE 4710–08–M

[Public Notice CM–8/1001]

Advisory Committee on International Investment, Technology, and Development; Subcommittee on Transborder Data Flows; Meeting

The Department of State will hold a meeting of the Subcommittee on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development on October 21, 1986 from 10:00 a.m. to noon. The meeting will be in the East Auditorium at the Department of State, 2201 C Street, NW, Washington, DC 20520.

The purpose of the meeting will be to discuss preparations for the October 27–31, 1986 meeting of the OECD's Committee on Information, Computer, and Communications Policy (ICCP) and its Working Party on Transborder Data Flows. Particular agenda items will include the ICCP work in development of a conceptual framework for trade in communications and information (C&I) services, a U.S. paper on laws and regulations affecting communications and information services, and the ICCP's work on telecommunications services and the economic effect of liberalization in telecommunications.

Access to the State Department is controlled. Therefore, members of the public wishing to attend the meeting must contact the Office of Investment Affairs (202) 647–2728 in order to arrange admittance. Please use the "C" street entrance.

The Chairman of the Working Group will, as time permits, entertain comments from members of the public at the meeting.

Dated: September 9, 1986.

Walter B. Lockwood, Jr.,

Executive Secretary.

[FR Doc. 86–22340 Filed 10–1–86; 8:45 am]

BILLING CODE 4710–07–M

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Friday, October 3, 1986 at 11:00 a.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 12:30 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in March 1986, the announcement of gifts, loans, and financial contributions from January 1, 1986—July 1, 1986 a report on the completed project on the 7th floor.

Public access to the Department of State is controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Wednesday, October 1, 1986, telephone (202) 647–1990 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: September 9, 1986

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 86–22518 Filed 10–1–86; 10:55 am]

BILLING CODE 4710–38–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 86–058]

Towing Safety Advisory Committee; Meeting of Subcommittees

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of meetings of various Subcommittees of the Towing Safety Advisory Committee (TSAC). The subcommittees will meet as follows:

1. The Subcommittee on Personnel Manning and Licensing will meet on 30 October 1986 in Room 1105 at U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. The meeting will begin at 1:00 p.m. and end at 3:30 p.m. The agenda for the meeting consists of the following discussion items:

(a) Round trip requirements to serve as pilot (46 CFR 157.20–40(e)(1));

(b) Definition of "coastwise seagoing vessel" for pilotage purposes;

(c) Definition of pilotage waters;

(d) A written test alternative to the chart sketch for a first class pilot's license restricted to tug and barge only; and

(e) Require first class pilots to have experience on vessels of more than 40,000 gross tons in order to be authorized to pilot vessels of more than 50,000 gross tons.

2. The Subcommittee on Personnel Safety and Workplace Standards will meet on 31 October 1986 at 9:30 a.m. in the same room described above to discuss the Coast Guard proposed rulemaking relating to 46 CFR Part 12 which is titled Certification of Seamen. This proposal contemplates additional requirements; such as physical examinations, mandatory training, and drug/alcohol screening for initial certification and retention of merchant mariners documents. In addition, this revision will incorporate changes in the statutes, clarify policy and procedures, and improve the overall readability of the regulations.

3. The Subcommittee on Existing Regulations Review and Restructure will meet on 4 December 1986 at 10:00 a.m. in Room 6319 at U.S Coast Guard Headquarters to discuss the American Bureau of Shipping rules for towing vessels as they relate to the sinking of the Tug EAGLE and the NTSB recommendations.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from Captain J. H. Parent, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G–CMC/21), Washington, DC 20593 or by calling (202) 267–1477.

Dated: September 29, 1986.

J. H. Parent,

Executive Director, Towing Safety Advisory Committee.

[FR Doc. 86-22324 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 162—Aviation System Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 162 on Aviation System Design Guidelines for Open Systems Interconnection (OSI) to be held on October 21-22, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Review Terms of Reference; (3) Briefing on Open Systems Interconnection (OSI); (4) Review of Recent Applications of OSI to Aviation Systems; (5) Develop Committee Work Program and Schedule of Accomplishment; (6) Assignment of Tasks; (7) Other Business; and (8) Time and Place of Next Meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 25, 1986.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 86-22248 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Nevada and Placer Counties, Near Truckee, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Nevada and Placer Counties, California.

FOR FURTHER INFORMATION CONTACT: Michael A. Cook, District Engineer, Federal Highway Administration, P. O. Box 1915, Sacramento, California 95809, Telephone (916) 551-1307.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (CALTRANS) will prepare an EIS on a proposal to construct a State Route 267 bypass of the downtown Truckee area.

The proposal will improve safety and traffic service by providing an alternate facility that will remove state highway traffic from: an at-grade railroad crossing (five tracks); a crossing of the Truckee River on a narrow bridge, passage through a local historical area, and the downtown area of Truckee.

Alternatives for this project presently consist of: (1) no project; (2) constructing one of two bypass alignment alternatives.

An informal public meeting was held in Truckee on December 17, 1985, to receive comments from public and private organizations and from individuals.

Additional scoping meetings will be arranged with all responsible/cooperating agencies and with special interest groups upon request. In addition at the time of Draft EIS circulation, a public hearing will be held. Public notice will be given as to the time and place of the hearing. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal Programs and activities apply to this program)

Issued on: September 25, 1986.

Michael A. Cook,

District Engineer, Sacramento, California.

[FR Doc. 86-22251 Filed 10-1-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: September 25, 1986.

The Department of the Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0029
Form Number: ATF F 10 (ATF F 5320.10)
Type of Review: Extension
Title: Application for Registration of Firearms Acquired by Certain Governmental Entities

OMB Number: 1512-0046
Form Number: ATF REC 5520/2—Form 27-G
Type of Review: Reinstatement
Title: Applications—Volatile Fruit-Flavor Concentrate

Clearance Officer: Robert G. Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Financial Management Service

OMB Number: 1512-0027
Form Number: POD 1681
Type of Review: Reinstatement
Title: Application for Payment of a Deceased Depositor's Postal Savings Certificate

OMB Number: 1510-0028
Form Number: POD 134
Type of Review: Reinstatement
Title: Release Form

OMB Number: 1510-0030
Form Number: POD 1690
Type of Review: Reinstatement
Title: Certification of Bill From Undertaker

Clearance Officer: Douglas C. Lewis, Financial Management Service, Room

100, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Internal Revenue Service

OMB Number: 1545–0126
Form Number: IRS Form 1120F
Type of Review: Revision
Title: U.S. Income Tax Return of a Foreign Corporation

OMB Number: 1545–0257
Form Number: IRS Forms 8109, 8109A, and 8109B
Type of Review: Revision
Title: Federal Tax Deposit Coupon, FTD Reorder Form

OMB Number: 1545–0715
Form Number: IRS Form 1099–B
Type of Review: Revision
Title: Statement for Recipients of Proceeds From Real Estate, Broker, and Barter Exchange Transactions

OMB Number: 1545–0770
Form Number: None
Type of Review: Extension
Title: Transfers of Securities Under Certain Agreements (LR–182–78 NPRM)

OMB Number: 1545–0890
Form Number: IRS Form 1120–A
Type of Review: Revision
Title: U.S. Corporation Short-Form Income Tax Return

Clearance Officer: Garrick Shear, (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Robert Neal, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Douglas J. Colley,

Departmental Reports Management Office.

[FR Doc. 86–22374 Filed 10–1–86; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to section 10 of Pub. L. 92–463, that a meeting will be held at the U.S. Treasury Department in Washington, DC on October 28 and October 29, 1986 of the following debt management advisory committee: Public Securities Association, U.S. Government and Federal Agencies, Securities Committee.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on October 28 and the preparation of a written report to the Secretary of the Treasury on October 29, 1986.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92–463, and vested in me by Treasury Department Order 101–5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b (c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the finaicial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92–463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are " trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: September 29, 1986.

Charles O. Sethness,

Assistant Secretary (Domestic Finance).

[FR Doc. 86–22359 Filed 10–1–86; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy

A joint meeting of the U.S. Advisory Commission on Public Diplomacy and the U.S. Information Agency's Television Telecommunications Advisory Committee will be held October 8, 1986, in Room 800, 301 4th Street, SW., Washington, DC from 10:30 a.m. to 12:00 noon. The Commission and the Committee will discuss developing international telecommunications technologies and their implications for public diplomacy policies and programs.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: September 29, 1986.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 86–22373 Filed 10–1–86; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Jill Cottine, Agency Clearance Officer (732), Veterans Administration 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 29, 1986.

By direction of the Administrator:

David A. Cox

Associate Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits
2. Veterans Application for Counseling
3. VA Form 28–8832
4. On occasion
5. Individuals or households
6. 5,000 responses
7. 417 hours
8. Not applicable

Extension

1. Department of Medicine and Surgery
2. Soft Tissue Sarcoma Study Questionnaire
3. VA Form 10–20763
4. One time
5. Individuals or households
6. 1,126 responses
7. 563 hours
8. Not applicable

[FR Doc. 86–22327 Filed 10–1–86; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Wage Committee Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 16, 1986, at 2:30 p.m.
Thursday, October 23, 1986, at 2:30 p.m.
Thursday, November 6, 1986, at 2:30 p.m.
Thursday, November 20, 1986, at 2:30 p.m.
Thursday, December 4, 1986, at 2:30 p.m.
Thursday, December 18, 1986, at 2:30 p.m.

The meetings will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Public Law 94–409, and as cited in 5 U.S.C. 552b(c) (2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: September 22, 1986.

By direction of the Administrator:

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–22326 Filed 10–1–86; 8:45 am]

BILLING CODE 8320–01–04–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 191
Thursday, October 2, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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FEDERAL ENERGY REGULATORY COMMISSION

September 26, 1986.

The Commission took action on the following items at the meeting of September 25, 1986:

CAP-1.
Project No. 7037-001, Okanogan Public Utility District
CAP-3.
Project Nos. 5376-002 and 003, Boise Cascade Corporation
CAP-4.
Project No. 2959-011, City of Seattle, Washington
CAP-5.
Project Nos. 8915-001, 7791-002 and 8235-002, Hydroelectric Development, Inc.
CAP-6.
Project No. 8499-002, City of Redding, California
CAP-7.
Project No. 2548-007, Georgia-Pacific Corporation
CAP-9.
Project No. 3991-002, STS Energenics Ltd.
CAP-10.
Docket No. ER86-272-003, Pacific Gas and Electric Company
CAP-11.
Docket No. ER86-615-000, Commonwealth Edison Company
CAP-12.
Docket No. ER86-622-000, Philadelphia Electric Company and Susquehanna Electric Company
CAP-13.
Docket Nos. ER86-638-000 and ER86-368-001, El Paso Electric Company
CAP-14.
Docket Nos. ER86-405-001, ER86-468-001 and ER86-517-001, Boston Edison Company
CAP-15.
Docket No. ER86-549-000, Illinois Power Company
CAP-16.
Docket No. QF86-686-000, Martin Marietta Aluminum Properties, Inc.
CAP-17.
Docket No. ER84-322-000, Pacific Gas and Electric Company
CAP-19.
Docket Nos. EL86-10-000 and ER84-579-006, Kentucky Power Company
CAP-20.
Docket No. ER86-361-001, Upper Peninsula Power Company
CAP-21.
Docket No. ER86-277-001, Central and South West Services, Inc.
CAP-22.
Docket No. ER86-646-000, Middle South Services, Inc.
CAM-1.
Docket No. FA85-71-001, Central Illinois Public Service Company
CAM-2.
Docket No. FA85-34-000, Stingray Pipeline Company
CAM-3.
Pacific Interstate Transmission Company, Pacific Offshore Pipeline Company, Pacific Interstate Offshore Company, Southern California Edison Company
CAM-4.
Docket No. RM85-1-000, regulation of natural gas pipelines after partial wellhead decontrol (Kaiser-Francis Oil Company and Essex Exploration Company)
CAM-5.
Docket No. RM85-1-000, regulation of natural gas pipelines after partial wellhead decontrol (Vessels Oil and Gas Company, Standard Gas Marketing Company and French Petroleum Corporation)
CAM-6.
Docket No. GP86-9-001 and 002, Consolidated Gas Transmission Corporation
Docket No. GP82-31-001 and 002, Mid-Louisiana Gas Company
Docket No. GP82-41-001 and 002, Columbia Gas Transmission Corporation
CAM-7.
Docket No. GP85-39-000, Commonwealth of Pennsylvania, Department of Environmental Resources, section 102, determinations, Appalachian Energy, Inc., Adrian Sorenson #1 well, FERC JD No. 80-32779; Richard C. Farver #1 well, FERC JD No. 80-45787; R. Marsh #1 well, FERC JD No. 81-2011; R.K. Farver #1 well, FERC JD No. 81-2012; A. Bishop #1 well, FERC JD No. 81-2013; B. Wilson #1 well, FERC JD No. 81-9664; W. Wilson #1 well, FERC JD No. 81-10302; L. Meerdink #1 well, FERC JD No. 81-19066; B. Warner #1 well, FERC JD No. 81-21756; R. Warner #1 well, FERC JD No. 81-47187
CAM-8.
Docket No. GP85-44-000, Commonwealth of Pennsylvania, Department of Environmental Resources, section 102 determinations, Meridian Exploration Corporation, V. Mahan #570-1 well, FERC JD No. 82-20126, V. Mahan #583-3 well, FERC JD No. 82-26991
CAM-9.
Docket No. GP85-46-000, Commonwealth of Pennsylvania, Department of Environmental Resources, section 102 determinations, Victory Development Company, Kopp #1 well, FERC JD No. 83-30338; #1 defense & emergency well, FERC JD No. 83-30335; #3 defense & emergency well, FERC JD No. 83-30337; #1 Loins Recreation Center well, FERC JD No. 83-30336; #2 Loins Recreation Center well, FERC JD No. 83-30339
CAM-10.
Docket No. RM85-1-000, regulation of natural gas pipelines after partial wellhead decontrol (Tejas Power Corporation and TXO Production Corporation)
CAM-11.
Docket No. RM85-11-000, revision of FERC Form No. 73, Oil Pipeline Data for Depreciation Analysis
CAG-1.
Docket No. RP86-159-000, Blue Dolphin Pipe Line Company
CAG-2.
Docket Nos. RP86-158-000 and CP86-526-000, United Gas Pipe Line Company
CAG-4.
Docket Nos. RP86-104-001 and CP86-589-000, Colorado Interstate Gas Company
CAG-5.
Docket Nos. RP84-59-005 and RP85-13-013, Northwest Pipeline Corporation
CAG-7.
Docket Nos. TA87-1-42-000 and 001 (PGA87-1) and TA86-3-4-42-000, Transwestern Pipeline Company
CAG-9.
Docket Nos. TA87-1-35-000 and 001 (PGA87-1), West Texas Gas, Inc.
CAG-10.
Docket Nos. TA87-1-34-000, 001, TA86-4-34-000, TA86-3-34-000 and TA86-1-34-000, Florida Gas Transmission Company
CAG-11.
Docket Nos. TA87-1-33-000, 001 and RP86-156-000, El Paso Natural Gas Company
CAG-13.
Docket Nos. TA87-1-31-000, 001 and RP86-160-000, Arkla Energy Resources, a division of Arkla, Inc.
CAG-14.
Docket Nos. TA87-1-7-000 and 001, Southern Natural Gas Company
CAG-15.
Docket Nos. TA86-8-51-000 and 001, Great Lakes Transmission Company
CAG-16.
Docket No. TA86-1-30-000 (PGA86-1), Trunkline Gas Company
CAG-19.
Docket No. RP86-133-001, National Fuel Gas Supply Corporation
CAG-20.

Docket Nos. RP83-34-007 and RP79-10-025, Great Lakes Gas Transmission Company
CAG-21.
Docket No. RP78-20-026, Columbia Gas Transmission Corporation
CAG-22.
Docket No. RP86-137-002, Florida Gas Transmission Company
CAG-23.
Docket Nos. RP86-35-006 and 007, Great Lakes Gas Transmission Company
CAG-24.
Docket No. TA86-1-40-002, Raton Gas Transmission Company
CAG-25.
Docket Nos. TA86-2-15-002, 003, 004, RP86-138-001, 002 and 003, Mid-Louisiana Gas Company
CAG-26.
Docket No. RP86-113-003, Gas Transport, Inc.
CAG-27.
Docket Nos. RP86-75-002 and 003, Northern Natural Gas Company, division of Enron Corporation
CAG-29.
Docket No. RP86-92-001, Northwest Pipeline Corporation
CAG-30.
Docket Nos. TA86-1-12-000 and 001, Distrigas Corporation
Docket Nos. TA86-2-12-000 and 001, Distrigas of Massachusetts Corporation
CAG-31.
Docket Nos. TA86-6-5-000, TA85-5-5-000 and 002, Mid-Western Gas Transmission Company
CAG-32.
Docket Nos. TA86-4-37-000, 001 and 002, Northwest Pipeline Corporation
CAG-33.
Docket No. RP86-150-000, El Paso Natural Gas Company
CAG-36.
Docket Nos. ST86-1498-000 and ST85-354-001, SNG Intrastate Inc.
CAG-37.
Docket Nos. ST86-1338-000 and ST86-1014-000, Cranberry Pipeline Corporation
CAG-38.
Docket Nos. RI74-188-085 and RI75-21-080, Independent Oil & Gas Association of West Virginia
CAG-39.
Docket No. CI77-329-002, Texaco, Inc.
CAG-40.
Docket Nos. CP86-389-001 and 002, Transcontinental Gas Pipe Line Corporation
CAG-41.
Docket No. CP86-82-001, Texas Eastern Transmission Corporation
CAG-42.
Docket No. CP86-313-00, Panhandle Eastern Pipe Line Company
CAG-43.
Docket No. CP86-233-000, United Gas Pipe Line Company
CAG-44.
Docket No. CP86-298-000, Panhandle Eastern Pipe Line Company
CAG-45.
Docket Nos. CP86-324-000 and CP86-326-000, Northern Natural Gas Company, division of Enron Corporation
CAG-46.
Docket No. CP86-608-000, Columbia Gas Transmission Corporation
CAG-47.
Docket No. CP81-188-007, Consolidated Gas Transmission Corporation
CAG-48.
Docket No. CP86-433-000, Southern Natural Gas Company
CAG-49.
Docket No. CP82-535-003, Texas Eastern Transmission Corporation
CAG-50.
Docket No. CP86-465-000, Tennessee Gas Pipeline Company, division of Tenneco Inc.
CAG-51.
Docket No. CP86-517-000, Northern Natural Gas Company, a division of Enron Corporation
CAG-52.
Docket Nos. CP86-206-000 and 001, Midwestern Gas Transmission Company
CAG-53.
Docket Nos. CP86-95-001, CP86-96-001 and CP85-826-001, National Fuel Gas Supply Corporation
Docket No. CP86-294-001, Northern Natural Gas Company, division of Enron Corporation
Docket No. CP86-169-001, Colorado Interstate Gas Company
Docket No. CP86-282-001, MIGC, Inc.
Docket Nos. CP86-414-002, CP86-556-000, CP86-557-001 and CP86-437-001, Natural Gas Pipeline Company of America
CAG-54.
Docket No. CP84-637-002, Northern Natural Gas Company, division of Enron Corporation
Docket No. CP84-579-003, Northern Border Pipeline Company
CAG-55.
Docket No. RP86-94-005, Sea Robin Pipeline Company
CAG-56.
Docket Nos. CP85-875-000 and CP86-275-000, East Tennessee Natural Gas Company
P-1.
Project No. 2890-011 and 013, Kings River Conservation District
ER-1.
Docket No. EF86-2061-000, U.S. Department of Energy—Bonneville Power Administration
ER-4.
Docket No. EL86-30-000, Oxbow Geothermal Corporation
ER-5.
Docket No. EL86-28-000, Unitil Power Corporation, Concord Electric Company and Exeter and Hampton Electric Company
Docket No. ER86-559-000, Unitil Power Corporation
Docket No. ER86-565-000, Public Service Company of New Hampshire
M-1.
Docket Nos. RM82-38-001 through 009, fees applicable to electric utilities, cogenerators and small power producers
RP-2.
Docket No. RP86-117-000, Gas Research Institute
RP-7.
Docket No. RP86-44-000, Valero Interstate Transmission Company
CP-3.
Docket No. CP86-251-000 and 001, Tennessee Gas Pipeline Company, a division of Tenneco Inc.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-22375 Filed 9-29-86; 5:08 pm]

BILLING CODE 6717-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:25 p.m. on Friday, September 26, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in American Bank & Trust Company, Lafayette, Louisiana, which was closed by the Commissioner of Financial Institutions for the State of Louisiana, on Friday, September 26, 1986; (2) accept the bid for the transaction submitted by Whitney National Bank of New Orleans, New Orleans, Louisiana; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Robert L. Clarke (Comptroller of the Currency), seconded by Director C.C. Hope, Jr. (Appointive), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 29, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-22439 Filed 9-30-86; 3:33 pm]

BILLING CODE 6714-01-M

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FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 7, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee
* * * * *

DATE AND TIME: Thursday, October 9, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Final audit report—Mondale for President Committee, Inc.
Draft Advisory Opinion 1986–31—David E. Johnson for Democratic Senatorial Campaign Committee
Draft Advisory Opinion 1986–33—Areta K. Guthrey on behalf of Metropolitan Mortgage and Securities Co., Inc. PAC
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–376–3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 86–22436 Filed 9–30–86; 2:16 pm]
BILLING CODE 6715–01–M

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INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 9, 1986.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED:

Docket No. 39021—
Midtec Paper Corporation, et al. v. *Chicago and North Western Transportation Company (Use of Terminal Facilities and Reciprocal Switching Agreement).*

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Legislative and Public Affairs, Telephone: (202) 275–7252.

Noreta R. McGee,
Secretary.
[FR Doc. 86–22424 Filed 9–30–86; 11:45 am]
BILLING CODE 7035–01–M

Federal Register

Thursday
October 2, 1986

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 341 and 369

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Final Monograph for OTC Bronchodilator Drug Products; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 341 and 369

[Docket No. 76N-052B]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Final Monograph for OTC Bronchodilator Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) bronchodilator drug products (drug products used in the symptomatic treatment of wheezing and shortness of breath of asthma) are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on bronchodilator drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: October 2, 1987. For additional information concerning this effective date, see "Paperwork Reduction Act of 1980" appearing in the preamble of this document.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is being issued in the following segments: anticholinergics and expectorants, bronchodilators, antitussives, nasal decongestants, antihistamines, and combinations. The second segment, the tentative final monograph for OTC bronchodilator drug products, was published in the **Federal Register** of October 26, 1982 (47 FR 47520). Interested persons were invited to file by December 27, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by February 23, 1983. New data could have been submitted until October 26, 1983, and comments on the new data until December 26, 1983. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC bronchodilator drug products.

In the **Federal Register** of August 30, 1983 (48 FR 39242), the agency published a notice reopening the administrative record for OTC bronchodilator drug products to accept comments that had been filed with the Dockets Management Branch, FDA, since the date the administrative record officially closed and to include the results of a meeting of FDA's Pulmonary-Allergy Drugs Advisory Committee held on May 13 and 14, 1983. This meeting was held to discuss the issue of OTC marketing of the bronchodilator drug metaproterenol sulfate. The administrative record was also reopened for the filing of additional comments on the OTC marketing of metaproterenol sulfate metered-dose inhaler products. Interested persons were invited to submit comments on the OTC marketing of metaproterenol sulfate on or before October 31, 1983. Data and information received after the administrative record was reopened are on display in the Dockets Management Branch.

The agency's final rule, in the form of a final monograph, for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is also being published in segments. Final agency action on OTC bronchodilator drug products occurs with the publication of this document, which establishes §§ 341.1, 341.3, 341.16, 341.76, and 341.90 for OTC bronchodilator drug products in new Part 341 (21 CFR Part 341).

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC bronchodilator drug products (47 FR 47520), the agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register.** Therefore, on or after October 2, 1987, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In response to the proposed rule on OTC bronchodilator drug products, 4 drug manufacturers, 275 health professionals, 7 health care professional societies, 1 citizen's group, and 3 private individuals submitted comments. A request for oral hearing before the

Commissioner was also received on one issue. Copies of the comments and the hearing request received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

In proceeding with this final monograph, the agency has considered all objections, requests for oral hearings, and the changes in the procedural regulations.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of August 9, 1972 (37 FR 16029), or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

A. General Comment on Bronchodilator Drug Products

1. Several comments from health care professionals and one comment from a health care professional society objected to the OTC marketing of any drug product for the treatment of asthma. These comments generally expressed the opinion that self-diagnosis and self-treatment of asthma can lead to serious clinical consequences and that this condition should be treated only under the supervision of a physician. One comment noted "the potential for rebound phenomenon in regard to the bronchospasm with overuse of the [bronchodilator] inhalers" and stated that "with judicial use [of bronchodilators] involving medical care and patient education, this potential is still present, but minimized." One comment contended that if the safety of a drug were the sole requirement for OTC status, many current prescription drugs could qualify. Another comment stated that the asthmatic episode may result in an impairment of respiratory functions ranging from a moderate degree of disability to life-threatening asphyxiation. One comment agreed that OTC bronchodilator drug products should be available to asthmatics who have been diagnosed by a physician.

The Panel reviewed the available data for OTC bronchodilator drug products and was aware of the risks associated with the self-diagnosis and self-treatment of asthma. The Panel concluded that it is reasonable to have bronchodilators available on a nonprescription basis and that, when taken as directed, the drugs are safe for OTC use (41 FR 38320). The Panel recommended that bronchodilator drug products be available OTC with appropriate labeling, and in the tentative final monograph the agency concurred in this recommendation.

Bronchodilator drug products have been available OTC and used extensively for many years. The agency concludes that the benefits of the continued OTC availability of these drug products outweigh the risks mentioned by the comments. OTC availability of bronchodilator drug products provides asthmatics ready access to this essential medication without the need for additional visits to a physician's office or to a hospital emergency room. This availability especially benefits those asthmatics whose attacks are triggered by common environmental factors (e.g., primarily by exertion, anxiety, exposure to cold, etc.) when immediate use may be essential. In addition, physician-diagnosed asthmatics who do not have easy access to medical care will continue to benefit from OTC use.

For many years, asthmatics have safely and effectively used OTC drug products containing ingredients included in this final monograph. However, in order to minimize inappropriate use of these products by consumers who may be tempted to self-diagnose and self-treat asthma, the Panel recommended and the agency is requiring in this final regulation a warning on the products that they should not be used unless a diagnosis of asthma has been made by a doctor. In addition, the agency has added a new warning in this final monograph to limit the use of OTC bronchodilators by asthmatics who have been hospitalized for asthma or who are taking a prescription drug product for asthma. This new warning is intended to alert patients with active, serious asthma that they should not rely solely on an OTC bronchodilator without consulting a physician. (See comment 15 below.)

The agency is requiring in this final monograph appropriate warnings to provide for the proper use of OTC bronchodilators. First, persons with heart disease, high blood pressure, thyroid disease, diabetes, or difficulty in urination due to enlargement of the prostate gland are informed not to use the drug unless directed by a doctor. Second, persons who are taking a prescription drug for high blood pressure or depression are informed not to use the drug without first consulting their doctor. Third, the labeling for each specific active ingredient includes a warning not to continue use of the drug, but to seek medical assistance immediately, if symptoms are not relieved within the time interval specified for that ingredient or if the symptoms become worse. Finally, the labeling also describes side effects that may occur and advises the consumer to consult a doctor if these effects persist or become worse. The agency concludes that this labeling will provide adequate information to asthmatics to provide for the safe and effective use of OTC bronchodilator drug products.

B. Comments on the Switch of Prescription Bronchodilators to OTC Status

2. Numerous comments objected to FDA's decision to initiate a prescription to OTC switch of metaproterenol sulfate in a metered-dose inhaler without prior consultation with experts outside of FDA. The comments stated that the agency's intention to switch metaproterenol sulfate from prescription to OTC use was first announced in the **Federal Register** of October 26, 1982 (47 FR 47524) and contended that the agency should have obtained input in advance from FDA's Pulmonary-Allergy Drugs Advisory Committee and other health professionals directly involved in the management of asthma. According to the comments, if such experts had been consulted, the agency would have obtained a broad spectrum of expert opinion concerning the safety of metaproterenol sulfate for use as an OTC drug. One comment added that, although the switch was announced in the **Federal Register**, few physicians who treat asthma read this publication. One comment also asked for assurance that a similar lapse in the advisory review process not occur in the future.

Although the agency publishes notices in the **Federal Register**, it is concerned, as pointed out by one comment, that physicians may not be aware of the **Federal Register** publications, and therefore cannot provide comment on various drug decisions contained in the **Federal Register**. The agency believes that the dissemination of information published in the **Federal Register** is of the utmost importance. Some of the methods FDA uses to disseminate such information are by the use of press releases, which are provided by FDA to the news media, and the FDA Drug Bulletin, which contains information regarding new drug developments, changes in labeling, etc., and is sent to physicians and other health professionals. In addition, FDA routinely mails information to professional

organizations and societies, which then can be instrumental in disseminating information to their members.

As stated in the tentative final monograph on OTC bronchodilator drug products (47 FR 47524), the proposal to switch metaproterenol in a metered-dose inhaler to OTC status was based on the agency's review of the published literature on metaproterenol sulfate's safe and effective use as a prescription drug and on the 9 years of safe use of the product as demonstrated by a review of adverse reaction experiences reported to the agency. It is true that metaproterenol was not reviewed by the Cough-Cold Panel and, therefore, there was no public announcement that the drug was being considered for OTC use. However, following publication of the tentative final monograph that allowed OTC marketing of metaproterenol, there was a 60-day comment period during which interested persons could comment on the proposed regulation. Eight comments were received during the comment period, but only four concerned metaproterenol; three favored and one opposed OTC status for metaproterenol. After one company began OTC marketing of metaproterenol in January 1983, considerable criticism was voiced by the medical community, particularly allergists and pediatricians. The main concern stressed by the comments opposing OTC use of metaproterenol was the drug's potential for misuse by both adults and children and the lack of sufficient input from the medical-scientific community before metaproterenol was allowed to be marketed OTC.

Because of this controversy, a special meeting of FDA's standing Pulmonary-Allergy Drugs Advisory Committee was convened on May 13 and 14, 1983. The meeting was called in order to provide a public forum for discussion of the marketing status of metaproterenol in a metered-dose inhaler. Formal presentations were made by individuals as well as professional organizations. During the actual Committee deliberations, the complexity of the issue was apparent. In voting to recommend that the FDA rescind its proposal to make metaproterenol an OTC drug, the Committee did not reach a clear consensus but ultimately voted four to three in favor of recommending to FDA that the drug be restricted to prescription status. The Committee also felt that this issue merited further discussion.

In May 1983, the only U.S. manufacturer of metaproterenol sulfate in metered-dose inhalers stopped marketing the drug OTC pending FDA's review of this matter and, on June 3, 1983, the agency published a notice in the **Federal Register** (48 FR 24925) advising that metaproterenol could be marketed only as a prescription drug until a final decision is made by the agency either under this OTC drug review rulemaking or under the established regulations for exempting prescription drugs in 21 CFR 310.200. At this time, the agency advises in this final rule that metaproterenol is a nonmonograph ingredient and may not be marketed as an OTC drug unless it is the subject of an approved application for OTC use or is eventually included at a later date in the final monograph. (See comment 3 below.)

Given the public response to the agency's decision to switch metaproterenol from prescription to OTC use, the agency agrees that in this particular situation it would have been preferable to have involved the Pulmonary-Allergy Drugs Advisory Committee in the decision-making process leading to the OTC marketing of metaproterenol. However, it is important to emphasize that the agency does not believe that all decisions it makes about drugs require the prior involvement of an advisory committee or the use of notice-and-comment rulemaking procedures. This issue was extensively discussed in the proposed rule-related notice in the **Federal Register** of June 3, 1983 (48 FR 24925 to 24928). That notice stated that:

> FDA has been given the statutory responsibility to make a broad range of decisions involving the suitability of drugs for use by the American public. These decisions involve the safety and effectiveness of drugs, their status as a prescription or OTC drug, the indications for their use, and other vital labeling information. In general, these decisions are made without rulemaking. Moreover, although many important decisions affecting drug approval are made with the assistance of advisory committees, many are not. FDA's advisory committees cannot, as a practical matter, be involved in all important decisions affecting drug approval or drug use. Even if they could be, it would be inappropriate for FDA to refrain in all cases from exercising its statutory responsibility to regulate drugs and their uses unless and until an advisory committee approved the agency's intended actions. Congress has given the duty of approving drugs to FDA, not to advisory committees. The agency believes that advisory committees are an important adjunct to its decision-making, but it does not believe that advisory committees should be viewed as an indispensable part of all FDA procedures for regulating drugs. Less than a decade ago, a Congressional subcommittee strongly criticized FDA for relying too often and too heavily on advisory committees in deciding important drug issues. Although FDA believes that that criticism was misplaced given the factual background against which it was made, the subcommittee's underlying point is valid: FDA is responsible for making decisions about drugs, and the agency must therefore exercise restraint in the extent to which it uses advisory committees to improve its decision-making process, making sure that committee advice supplements FDA's expertise without displacing the agency's authority.

Because of the ongoing controversy regarding possible OTC status for beta-adrenergic bronchodilator drug products in metered-dose inhalers, and based on the Advisory Committee's previous recommendation that this issue merited further discussion, the agency held an open public meeting of its Pulmonary-Allergy Drugs Advisory Committee on May 19, 1986 to discuss the possible OTC marketing of current prescription beta adrenergic drug products in metered dose inhalers. The following professional groups opposed switching from prescription to OTC status for these drug products and submitted comments for the Committee's consideration: the American Academy of Allergy and Immunology, the American Thoracic Society, the American Academy of Pediatrics, and the American Society of Hospital Pharmacists (Refs. 1 through 4). The American Academy of Allergists also opposed switching these drugs to OTC status and presented its statement at the Committee's meeting (Ref. 5). A comment from the American Pharmaceutical Association (Ref. 6) supported OTC status for these beta adrenergic drugs in metered-dose inhalers if these drugs are required to be dispensed by pharmacists. At the May 19th meeting, the Committee discussed the role of physicians, drug companies, and pharmacists in providing adequate patient education and the role of asthma patients themselves in gaining adequate information to assure the proper use of inhaled beta adrenergic drug products. The Committee considered the importance of physician monitoring of the use of beta adrenergic metered-dose inhalers by asthmatic patients. The Committee members felt that such monitoring was essential because asthmatic patients represent a broad spectrum of severity of disease, and the Committee expressed the opinion that OTC availability of inhaled beta adrenergic drug products would be detrimental to physician monitoring of the use of these drug products. The Committee commented on recently published data concerning the lack of patient compliance with the physician's directions for use of aerosolized

medications and concluded that insufficient data were available describing the success of physician monitoring of patient compliance in the use of these drugs to evaluate approving OTC availability of current prescription beta adrenergics in metered-dose inhalers. The importance of educational programs to improve patient care was discussed at length and the drug companies that gave presentations to the Committee emphasized their continued commitment to developing such programs whether these drugs remain prescription drugs or become available OTC. The Committee concluded that the available data did not provide support for OTC availability of prescription beta adrenergic drugs in metered-dose inhalers at this time.

References

(1) Comment No. C00005, Docket No. 86N-0063, Dockets Management Branch.
(2) Comment No. C00007, Docket No. 86N-0063, Dockets Management Branch.
(3) Comment No. C00019, Docket No. 86N-0063, Dockets Management Branch.
(4) Comment No. C00018, Docket No. 86N-0063, Dockets Management Branch.
(5) Transcripts of the May 19, 1986, Meeting of the FDA Pulmonary-Allergy Drugs Advisory Committee, Dockets Management Branch.
(6) Comment No. C00002, Docket No. 86N-0063, Dockets Management Branch.

3. Many comments, mostly from health care professionals and health care professional societies, objected to the agency's proposal that metaproterenol sulfate in metered-dose inhalers be switched from prescription to OTC status because of the following major concerns: this drug in the inhaler dosage form has abuse and misuse potential, particularly in teenagers; possible drug interactions between metaproterenol sulfate and theophylline could cause adverse reactions such as arrhythmia and myocardial toxicity; in the 1960's the United Kingdom and Australia experienced deaths that were associated with OTC availability of beta agonists such as metaproterenol sulfate in aerosol dosage forms (Refs. 1 and 2); the physician will lose the ability to closely supervise the care of asthmatic patients and to properly instruct the patient in the use of the inhaler; OTC availability may cause delay in the emergency treatment of a serious life-threatening asthmatic attack because metaproterenol is an effective long-lasting drug; it is inappropriate to "prescribe" via advertising directed towards asthmatics; the proposed OTC warnings regarding fatalities with metaproterenol sulfate inhaler drug products are not comparable to the warnings required for prescription drug products; the potential for the development of patient tolerance of beta agonists with increased use of metaproterenol sulfate due to the OTC status of the drug could result in the eventual lack of drug effect; and there may be a decrease in the effectiveness of inhaled bronchodilators when viral respiratory tract infections, allergic reactions, or other stimuli result in an inflammatory component to airways obstruction.

Several comments urged the agency to require safety studies, particularly in children, prior to the OTC release of metaproterenol sulfate in metered-dose inhalers. Two comments from a health care professional society urged the agency to monitor possible misuse and abuse of metaproterenol sulfate inhalers as well as adverse reactions once this drug is switched to OTC status. A comment from another health care professional society urged the agency to reverse its decision to allow OTC marketing of metaproterenol sulfate in metered-dose inhalers until the medical and scientific community could study further the possibility of switching this drug to OTC status.

However, several comments supported OTC status for metaproterenol sulfate in metered-dose inhalers. These comments expressed confidence in the ability of asthmatics to understand and heed label warnings and directions. One comment contended that maintaining drug products on prescription status does not endow the products with increased safety and argued that OTC status for metaproterenol would provide savings in medical costs. The comment stated that the OTC availability of metaproterenol sulfate in metered-dose inhalers would benefit mild asthmatics, especially those in isolated areas or inner cities where medical care is not easily available, and that the hazards of overuse of the drug are exaggerated. Other comments contended that metaproterenol sulfate in metered-dose inhalers is safer than currently available OTC inhalers.

One comment rebutted several of the concerns raised by comments opposing OTC status for metaproterenol sulfate. The comment submitted statements by experts who argued that there is no factual basis to the claim that OTC sales of metaproterenol sulfate in metered-dose inhalers were associated with asthma deaths in the United Kingdom or Australia (Ref. 3). The comment submitted a review of the pharmacologic literature on metaproterenol, of data collected by the Drug Abuse Warning Network of the National Institute on Drug Abuse, of FDA adverse reaction reports, and of information compiled by the FDA's Poisoning Surveillance and Epidemiology Branch (Ref. 3). Based on its review of the above data, the comment concluded that there is no significant potential for abuse or misuse of metaproterenol sulfate inhalers.

Another comment submitted a "consumer information booklet" designed to enhance the consumers' understanding of asthma, how to control attacks, and how to use medication properly. The booklet describes asthma, several situations that can precipitate an asthma attack, the symptoms of an asthma attack, the steps asthmatics should take when they have an asthma attack, and how to properly use the inhaler containing the medication. The booklet emphasizes the need for the diagnosis of asthma by a physician and the importance of continued supervision of the treatment of asthma by a physician. The booklet also states that "asthma is a serious condition. You should work closely with your doctor and take any needed medications regularly. Call your doctor immediately or go to the hospital if you are unable to control an attack in its early stages." The comment contended that the booklet addresses many of the concerns raised in opposition to the switch of metaproterenol sulfate metered-dose inhalers to OTC status and that "such labeling could be considered a viable approach to alleviating the concerns of the medical community when the issue of metaproterenol sulfate aerosols and OTC status is considered again."

One comment supported OTC status of this drug if it is dispensed in consultation with a pharmacist because patients must be clearly and strongly warned that chronic use of sympathomimetic bronchodilators may lead to a decrease in the effectiveness of these drugs. However, this comment also stated that if provisions for dispensing metaproterenol OTC only in consultation with a pharmacist could not be required under current regulations, it would support OTC status for the drug anyway. Another comment supported OTC status of this drug only if it is dispensed in consultation with a pharmacist. This comment stated that "pharmacy students receive many, many hours of training concerned with drug consultation to patients."

As noted above, on June 3, 1983, the agency clarified the marketing status of metaproterenol sulfate in metered-dose inhalers in a **Federal Register** notice. The agency stated that the drug may not be marketed OTC until a final decision is made by the agency either under the OTC drug review rulemaking or under

the provisions of 21 CFR 310.200. The agency also stated that since the proposal to switch metaproterenol sulfate in metered-dose inhalers to OTC status, "the agency has evaluated the critical comments made in response to the OTC marketing of [this drug] and the data and arguments presented at the May 13, 1983 [Pulmonary-Allergy Drugs], advisory committee meeting. Despite the advisory committee's vote [to return metaproterenol to prescription status], FDA continues to believe that a careful weighing of risks and benefits supports the proposal that metaproterenol sulfate metered-dose inhaler should be made available without a prescription."

In the **Federal Register** of August 30, 1983 (48 FR 39242), the agency reopened the administrative record for OTC bronchodilator drug products to accept additional comments made after the closing of the record on December 27, 1982. The additional comment period ended October 31, 1983. Comments submitted in the additional comment period after the agency reopened the administrative record did not provide any additional data in support of restricting this drug product to prescription status. Although the comment period has closed, the agency continues to receive letters both for and against the OTC status of this drug. Copies of these letters have been included in this docket. As discussed in comment 3 above, the agency received additional comments concerning OTC availability of beta adrenergic drugs, such as metaproterenol, in metered-dose inhalers that are included in Docket No. 86N–0063, Dockets Management Branch, and held an open public meeting of its Pulmonary-Allergy Drugs Advisory Committee to discuss the general issue of OTC marketing of beta-adrenergic bronchodilator drug products in metered-dose inhalers on May 19, 1986.

The agency recognizes that at this time controversy remains in the medical and scientific community concerning the switch of metaproterenol sulfate in metered-dose inhalers to OTC status. This was made evident by the narrow vote of the Pulmonary-Allergy Drugs Advisory Committee in 1983 to retain prescription status and the discussion of the Advisory Committee at its May 19, 1986 meeting. Under the current circumstances, the agency concludes that a metered-dose inhaler which contains metaproterenol sulfate cannot be generally recognized as safe and effective at this time. Therefore, this drug is not being included in this final monograph. However, it should be noted that the present nonmonograph status of the drug would not necessarily preclude FDA approval for OTC marketing under an approved application. A drug that is not generally recognized as safe and effective for OTC use may nonetheless be determined to be safe and effective under 21 U.S.C. 355 following FDA's evaluation of data submitted in support of an application for that purpose. OTC marketing under an application would provide FDA with postmarketing controls, such as adverse reaction reporting, generally not available to drugs covered by an OTC drug monograph.

References

(1) Campbell, A.H., "Mortality from Asthma and Bronchodilator Aerosols," *Medical Journal of Australia*, 1:386–291, 1976.

(2) Inman, W.H.W., and A.M. Adelstein, "Rise and Fall of Asthma Mortality in England and Wales in Relation to Use of Pressurized Aerosols," *Lancet*, 2:279–285, 1969.

(3) Comment C00224, Docket No. 76N–052B, Dockets Management Branch.

(4) Transcripts of the May 13 and 14, 1983, Meeting of the FDA Pulmonary-Allergy Drugs Advisory Committee, identified as TS, Docket No. 76N–052B, Dockets Management Branch.

4. Three comments recommended that the agency consider switching metaproterenol sulfate in oral dosage forms from prescription to OTC status. One comment stated that "oral dosage forms are . . . important in the safe and effective management of bronchial asthma" and would provide alternative therapy to other currently available oral bronchodilators. Another comment contended that oral agents "should be used much more than asthma inhalers" and that oral beta agonists are safer than oral theophylline. This comment stated that "only the oral beta agonists [such as metaproterenol sulfate] should be allowed OTC." The third comment stated that oral metaproterenol sulfate is a more likely candidate for OTC dispensing than the inhaler dosage form of the drug because the oral form has "been studied sufficiently for FDA approval in children aged 6 to 12 years and [the oral form] is free of the inhaler abuse potential."

Oral dosage forms of metaproterenol sulfate have been approved for prescription use as bronchodilators since 1974 (Ref. 1). However, the agency does not believe that metaproterenol sulfate in oral dosage forms can be generally recognized as safe for OTC use. The agency notes that while both the oral and inhaled dosage forms of metaproterenol sulfate have been shown to be effective, the oral dose of 20 milligrams (mg) three to four times a day for a maximum daily dose of 80 mg for metaproterenol sulfate is approximately ten times greater than the inhaled dose of 1 to 3 inhalations containing 0.65 mg metaproterenol sulfate per inhalation, not to exceed 12 inhalations a day for a maximum daily dose of 7.8 mg. In a study comparing oral and aerosol bronchodilators in children 7 to 15 years of age, side effects such as heart discomfort, headache, and dizziness occurred more frequently with the oral dosage form of this drug than with the inhaled form (Ref. 2). In addition, a review of FDA's adverse reaction reporting system for the years 1974 to 1984 (Ref. 3) indicates that adverse reactions are reported more frequently for the oral dosage forms of metaproterenol sulfate than for the inhalation dosage forms of the drug. Specifically, these records indicate (when the only drug involved in the reported adverse reaction was either oral metaproterenol or inhaled metaproterenol) over 100 reactions reported for the oral dosage forms whereas less than 50 reactions were reported for the inhalation dosage forms. Side effects involving the heart such as palpitations, tachycardia, and hypertension accounted for over one-third of the reactions with the oral drug. Such side effects were reported five times more frequently with the oral forms of the drug than with the inhaled dosage form. Almost half of the adverse reactions with oral metaproterenol involved nervous reactions such as tremor, agitation, anxiety, and nervousness, and these reactions were three times more frequent for the oral forms of the drug than for the inhaled form. Chest pain, headache, and abdominal pain were reported for oral metaproterenol, while no reactions of pain were reported for the inhaled drug. In view of this adverse reaction information, the agency has determined that oral dosage forms of metaproterenol sulfate will not be included in this final monograph.

References

(1) Letters from J.R. Crout and M.J. Finkel, FDA, to R. Munies, Boehringer-Ingelheim, Ltd., OTC Volume 04BFM, Docket No. 76N–052B, Dockets Management Branch.

(2) Lee, H.S., "Comparison of Oral and Aerosol Adrenergic Bronchodilators in Asthma," *Journal of Pediatrics*, 99:805–807, 1981.

(3) Department of Health and Human Services, Food and Drug Administration, "Annual Adverse Reaction Summary Listing," pertinent pages for the years 1974–1984, OTC Volume 04BFM, Docket No. 76N–052B, Dockets Management Branch.

5. One comment assumed that inhaler bronchodilator drug products that contain either albuterol sulfate or isoetharine mesylate are currently

marketed OTC and requested that these inhalers be removed from OTC status because of contraindications and potentially harmful side effects for some individuals. Another comment (in support of OTC availability of metaproterenol in aerosol dosage forms) urged the agency to consider other beta$_2$ agonists such as albuterol sulfate and terbutaline sulfate in aerosol dosage forms for OTC availability. The comment contended that "these newer drugs have extensive worldwide experience, and dose-response data support a high margin of safety." The comment added that albuterol sulfate and terbutaline sulfate have "greater specificity for beta$_2$ receptors" and a longer duration of action than metaproterenol and thus are more effective and potentially safer than metaproterenol.

The agency clarifies that albuterol, isoetharine, and terbutaline are currently available only by prescription and have never been approved for OTC use in the United States. Additionally, the agency is not aware that any of these drugs has ever been marketed OTC in this country. The Panel did not review any of these drugs as possible switches from prescription to OTC status. At the time of the Panel's deliberations, terbutaline had been approved under an application and was marketed as a prescription drug for a relatively short time in the United States. At that time albuterol was not approved for prescription use. Under the agency's Drug Efficacy Study Implementation program, drug products containing isoetharine were classified as effective bronchodilators (43 FR 30349). However, isoetharine was not considered for OTC status. The agency did not propose to switch any of these drug products to OTC status in the tentative final monograph.

Furthermore, the agency believes that general recognition of the safety of the beta $_2$ agonists albuterol and terbutaline for OTC use does not exist at this time as a result of the controversy in the medical and scientific community concerning the safety of the beta $_2$ agonist metaproterenol sulfate for OTC use. (See comment 3 above.) Therefore, albuterol and terbutaline will not be included in this final rule. However, the agency may consider changing the status of these drugs at a later time under the new drug procedures or 21 CFR 310.200.

With respect to the request to remove albuterol and isoetharine mesylate from OTC status, these drugs remain prescription drug products. Therefore, the comment's request is moot.

6. Several comments from health care professionals and one comment from a health care professional society assumed that the ingredient isoproterenol is currently marketed as an OTC bronchodilator and objected to OTC status for this ingredient. The comments stated that isoproterenol is an extremely dangerous medication. Some of the comments noted that this ingredient is overused and abused. The comments requested that isoproterenol be removed from the OTC marketplace.

The agency notes that isoproterenol has never been approved for OTC status nor has it been marketed OTC in the United States to the agency's knowledge. The agency has not proposed that isoproterenol be switched from prescription to OTC status. Therefore, this drug remains a prescription drug and the comments' request to remove isoproterenol from the OTC marketplace is moot.

7. One comment stated that theophylline for use as a bronchodilator should be restricted to prescription status only.

The agency agrees with the comment. Although the Panel classified theophylline preparations as safe and effective for OTC use as bronchodilators and recommended that theophylline be available OTC as a single ingredient at specified dosages (41 FR 38373 to 38374), the agency mentioned in the preamble of the advance notice of proposed rulemaking (41 FR 38313) that the Panel's decision might be subject to modification in the tentative final monograph. Following publication of the Panel's report in the **Federal Register**, the agency received additional information regarding theophylline which suggested that the safe and effective use of the drug requires careful dosage titration based on theophylline serum concentrations. The agency discussed this additional information in a notice published in the **Federal Register** of December 10, 1976 (41 FR 54032) announcing that it disagreed with the Panel's recommendation regarding OTC use of theophylline, and that theophylline should not be made available as a single ingredient in OTC drug products. This decision limited the use of theophylline as a single ingredient to prescription products only.

In the tentative final monograph for OTC bronchodilator drug products, the agency reaffirmed its dissent from the Panel's recommendations to switch theophylline as a single ingredient from prescription to OTC status, and placed theophylline in Category II for OTC use as a single ingredient (47 FR 47521). Following publication of the tentative final monograph, no comments or data were submitted in support of changing the agency's Category II decision concerning theophylline as a single ingredient. Therefore, theophylline is considered a nonmonograph ingredient and is not included in this final monograph.

The agency notes that combination drug products that contain theophylline will be discussed in the tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic combination drug products in a future issue of the **Federal Register**. Therefore, such combinations will not be discussed in this document.

C. Comments on Specific OTC Bronchodilator Active Ingredients

8. Three comments objected to the continued OTC availability of asthma medications containing ephedrine. One comment mentioned serious cardiac side effects associated with ephedrine and asked that FDA reconsider its position. Another comment mentioned the death of a youngster who was not receiving regular medical care and developed severe asthma which he tried to self-treat with ephedrine. The third comment speculated that, if asked, a majority of the membership of the American Academy of Allergy and Immunology would oppose the OTC availability of ephedrine.

The Cough-Cold Panel thoroughly evaluated ephedrine as an OTC bronchodilator drug product. The Panel was aware of serious side effects such as rapid heart beat and elevated blood pressure associated with the use of ephedrine. However, the Panel cited two studies in which 25 mg ephedrine (adult OTC dosage is 12.5 to 25 mg every 4 hours) was demonstrated to have little or no effect on the heart beat or blood pressure of adult asthmatics (41 FR 38370). Other side effects associated with the use of ephedrine include tenseness, nervousness, tremor, sleeplessness, loss of appetite, nausea, and difficulty in urination in older males who may have an enlarged prostate gland. However, the Panel concluded from the data available to it that ephedrine preparations are safe and effective bronchodilator drug products for OTC use in physician-diagnosed mild cases of asthma when labeled as it recommended (41 FR 38370 to 38371).

The agency agrees with the Panel and believes that the labeling proposed in the tentative final monograph in § 341.76(c) (1) through (6), and as expanded in this final monograph (see comment 1 above), adequately advises consumers not to use this drug without

consulting a physician, not to use the drug if they have certain medical conditions, and to consult a doctor when the drug does not provide relief within a specific time interval or causes side effects that persist.

The comment did not provide any details about the death of the youngster who developed severe asthma which he tried to self-treat with ephedrine. The agency points out that OTC bronchodilator drug products containing ephedrine are not labeled for use in children under 12 years of age. The directions in § 341.76(d)(1) advise that for children under 12 years a doctor should be consulted. The agency has provided a dosage schedule for children under 12 years in § 341.90, the professional labeling section of the monograph, to inform physicians of the appropriate dosages to use.

The agency concludes that with appropriate labeling ephedrine can be safely and effectively used as an OTC bronchodilator drug product and is including this drug in the final monograph.

9. A number of physicians submitted comments objecting to the continued OTC availability of epinephrine as a bronchodilator drug product; some stated that epinephrine metered-dose inhalers should be removed from the market because they are a significant threat to the public health. Some of the comments stated that the OTC marketing of metaproterenol is a safer alternative and preferable to the OTC marketing of epinephrine. One comment from the American Academy of Allergy and Immunology cited epinephrine as an extremely hazardous medication and urged FDA to undertake a vigorous campaign to remove it from the OTC market once metaproterenol is approved. Several comments contended that asthmatic patients rely too heavily upon inhalers that often contain epinephrine and over-medicate themselves in the mistaken belief that if the regular dose fails to achieve the desired results, a more frequent dose will work. This approach to medication causes tolerance and dependency and often causes a patient with serious asthma to delay seeking professional treatment until it is too late. One comment pointed out that some patients tend to use inhalers as frequently as every 10 minutes to obtain further relief. Another comment maintained that patients over-medicate to the point of tachyphylaxis, i.e, decreasing response following consecutive doses at short intervals.

Several comments mentioned that serious side effects, even death, can result from the overuse of epinephrine. One comment stated that the death rate from asthma reached epidemic proportions in the United Kingdom some years ago until it was correlated with the sale of epinephrine nebulizers. The comment also maintained that epinephrine causes rebound congestion in the bronchial airways identical to the rebound congestion caused by epinephrine on the nasal mucosa. In addition, the comment voiced concern that epinephrine affects both alpha and beta receptors causing a rise in blood pressure, increased cardiac rate, and cardiac irritability. Some comments mentioned personal experiences with significant and troublesome side effects that required emergency room treatment and that were caused by the unsupervised and excessive use of epinephrine inhalers.

Three comments expressed a favorable view of OTC epinephrine inhalers. Two comments noted that there are few, if any, adverse reaction reports involving epinephrine abuse and/or overdose in the literature, adding that the paucity of adverse reaction reports is probably a result of epinephrine's weak potency as an aerosol bronchodilator. Although epinephrine may relieve cases of simple asthma, patients with more severe symptoms do not get relief and therefore are likely to seek appropriate medical care promptly. Another comment maintained that because currently available OTC bronchodilator inhalers are of sufficient potency and of an appropriately short acting nature, consumers can be trusted to use these inhalers safely.

The agency notes that similar comments were submitted following publication of the Panel's report in the **Federal Register** of September 9, 1976 (41 FR 38312). In its report, the Panel thoroughly reviewed the available literature and evaluated the risks associated with the OTC use of epinephrine (41 FR 38371 to 38372). At that time, the Panel recognized that although the wide use of epinephrine aerosols for the temporary relief of bronchospasms has been attended by few and mild side effects, a patient with a severe and worsening obstructive pulmonary disease may obtain temporary relief from an epinephrine inhaler and thus feel a false sense of security. As a result, the patient may delay seeking professional attention until the disease has reached life-threatening severity. The Panel, nevertheless, believed that the hazards associated with epinephrine use were avoidable by using low concentrations of epinephrine and by requiring proper labeling. The Panel also stated that because epinephrine stimulates both alpha and beta receptors, it would be expected to have a local constrictor effect on blood vessels in the lungs which would limit systemic absorption and toxicity of the drug (41 FR 38371 to 38372).

The Panel was fully aware of the risks associated with the self-diagnosis and self-treatment of asthma as well as the abuse potential and the possible adverse effects with the use of epinephrine inhalation products. As pointed out by the agency in the tentative final monograph, the Panel concluded that these data and these risks are adequately defined for epinephrine inhalation products in the labeling and do not outweigh the benefits to be derived from the OTC use of these products (47 FR 47522).

Because a number of comments to the Panel's report disagreed with the Panel's recommendation to allow the OTC marketing of epinephrine to continue, the agency, in its tentative final monograph on OTC bronchodilator drug products published in the **Federal Register** of October 26, 1982 (47 FR 47520), reevaluated the risks associated with the OTC availability of epinephrine. The agency concluded that epinephrine, epinephrine bitartrate, and epinephrine hydrochloride (racemic) (since renamed racepinephrine hydrochloride) in pressurized metered-dose inhalation aerosol dosage forms can be generally recognized as safe and effective for OTC use at a dosage for adults and children 4 years of age and older of 1 to 2 inhalations of a metered-dose equivalent to 0.16 to 0.25 mg epinephrine per inhalation not more often than every 3 hours. The agency concluded that the proposed dose provides an adequate margin of safety for the OTC marketing of epinephrine or equivalent in a metered-dose aerosol inhalation dosage form.

The agency finds that none of the comments submitted to the tentative final monograph provide additional data that could persuade the agency to limit epinephrine inhalation products to prescription use only. The Panel and the agency acknowledge that asthma requires professional diagnosis and management and concludes that a warning statement not to use the product unless a diagnosis of asthma has been made by a physician is adequate.

Regarding the comment on the relationship between the use of the drug and a rise in the death rate from asthma in the United Kingdom several years ago, the Panel reviewed and discussed this matter in its report (41 FR 38371 to

38372). The Panel and the agency note that the question arose because of an increase in the number of deaths among those using a chemically related drug, isoproterenol. Reports of an increase in deaths from isoproterenol had their origin in England. Epinephrine aerosol had been marketed for many years before its safety was seriously questioned by the incidence of side effects and deaths in England. The Panel stated that the preparation used in England had a concentration of isoproterenol five times greater than that used in Sweden, Australia, and the United States where no such increase in deaths had been noted. It was inferred that the high concentration of isoproterenol accounted for the increase in deaths. Deaths decreased when a lower concentration of isoproterenol was used.

The agency notes that the labeling proposed in the tentative final monograph and as expanded in this final monograph (see comment 1 above) adequately warns the consumer against initial self-diagnosis of asthma and against abuse and excessive use of bronchodilator drug products. The agency shares the concern voiced by the comments regarding the possibly serious consequences that could develop from the excessive use of epinephrine drug products. Therefore, the agency is requiring that the first sentence of the warning in § 341.76(c)(6)(i) and the warning contained in § 341.76(c)(6)(ii) appear on the label of the marketed product in boldface type. (See comment 11 below.)

Based on the Panel's recommendations and an OTC marketing history of many years under approved applications, the agency concludes that, with this expanded and revised labeling of the drug product, the continued OTC availability of epinephrine benefits the consumer and is not a safety hazard. Therefore, in this final monograph, the agency is including epinephrine, epinephrine bitartrate, and racepinephrine as bronchodilator active ingredients.

Regarding the comments' remarks concerning the OTC marketing of metaproterenol sulfate as a safe and preferable alternative to epinephrine, the agency notes that because many specialists in the field have serious reservations about the OTC availability of metaproterenol sulfate, it is not being given monograph status at this time. (See comment 3 above.)

D. Comments on Dosages for OTC Bronchodilators

10. One comment agreed that bronchodilators in metered-dose inhaler dosage forms should be available OTC. However, the comment objected to allowing drug products with such dosage delivery systems to enter the marketplace without FDA preclearance through approval of applications. The comment contended that the complexities of pressurized metered-dose aerosol dosage forms for inhalation are such that agency preclearance is necessary to assure the safety and effectiveness of these drug products. The comment stated that the proposed rulemaking is deficient because it does not discuss the complexities of the design, control, manufacture, and market use of metered-dose inhalation dosage delivery systems, nor does the tentative final monograph set forth manufacturing standards for metered-dose inhaler delivery systems.

The comment noted that some of the factors that influence the safety, effectiveness, and bioavailability of aerosolized bronchodilator drugs are the geometric pattern and propulsive force of the aerosol spray, the maintenance of a proper seal for the metering valve container closure, the maintenance of a constant accurate dose from the first dose delivered to the last dose delivered from a container, inactive ingredients in the products such as propellents, and the size of the aerosolized droplets containing the drug (the droplets must be of an appropriate size to ensure that they reach the desired site in the lungs).

The comment noted that the agency considers timed-release dosage forms to be new drugs under 21 CFR 200.31 and claims that metered-dose inhalation drug delivery systems are of a comparable complexity as timed-release dosage forms. The comment contended that, if FDA considers timed-release dosage forms new drugs, metered-dose inhalation dosage forms should also be new drugs and suggested that they be handled under the provisions of 21 CFR 330.11 as "NDA deviations" from OTC drug monographs. The comment explained that a full new drug application (NDA) would not be required, but that preclearance of "manufacturing controls information and bioavailability data" by the agency would be required. The comment argued that such a preclearance process is necessary to assure that metered-dose inhalation dosage forms are safe and effective. The comment included a copy of an oral presentation concerning "dosage reproducibility of inhalation metering aerosol drug dose delivery systems" (Ref. 1) in support of the position that the complexity of these dosage forms requires preclearance under NDA's. The comment noted that FDA has required preclearance of products marketed in this dosage form as new drugs for many years and questioned the sudden change in policy and what protection the agency was providing consumers to ensure that these drug products would be formulated as safe and effective. The comment requested a public hearing before the Commissioner if FDA does not require in the final monograph premarket approval of these products through a NDA.

For the reasons discussed below, the agency disagrees with the comment and believes that the state of the technology for metered-dose inhalation drug delivery systems is such that bronchodilator drug products in metered-dose inhalers in dosage ranges specified in the monograph can be generally recognized as safe and effective. As with all OTC drug products covered by monographs, it is the responsibility of the manufacturer to ensure that the products meet the standards set forth in the appropriate drug monograph and that the product design provides an appropriate effective dose. The agency believes that requirements in the Current Good Manufacturing Practice regulations (21 CFR Part 211) adequately address the control of the quality of drug product containers, components, and the drug product itself and that specific requirements for metered-dose inhalation drug delivery systems in the monograph are unnecessary. Specifically, § 211.160 states that:

(b) Laboratory controls shall include the establishment of scientifically sound and appropriate specifications, standards, sampling plans, and test procedures designed to assure that components, drug product containers, closures, in-process materials, labeling, and drug products conform to appropriate standards of identity, strength, quality, and purity. Laboratory controls shall include:

(1) Determination of conformance to appropriate written specifications for the acceptance of each lot within each shipment of components, drug product containers, closures, and labeling used in the manufacture, processing, packing, or holding of drug products. . . .

In addition, § 211.165 states that:

(a) For each batch of drug product, there shall be appropriate laboratory determination of satisfactory conformance to final specifications for the drug product, including the identity and strength of each active ingredient, prior to release. . . .

* * * * *

(d) Acceptance criteria for the sampling and testing conducted by the quality control unit shall be adequate to assure that batches of drug products meet each appropriate specification and appropriate statistical

quality control criteria as a condition for their approval and release. The statistical quality control criteria shall include appropriate acceptance levels and/or appropriate rejection levels.

(e) The accuracy, sensitivity, specificity, and reproducibility of test methods employed by the firm shall be established and documented. . . .

In addition, by regulation (21 CFR 330.1(e)), a product may contain only suitable inactive ingredients which are safe and do not interfere with the effectiveness of the preparation or with suitable tests or assays to determine if the product meets its professed standards of identity, strength, quality, and purity.

The agency has reviewed data from its Drug Product Problem Reporting System computerized data base for all bronchodilator drug products in metered-dose inhaler dosage forms including prescription drug products as well as OTC drug products (Ref. 2). A total of 27 product problems have been reported for metered-dose inhalers marketed OTC between 1973 and 1984. Over 17 million units of metered-dose inhalers containing epinephrine have been marketed after 1980. No problems related to the metered-dose mechanisms have been reported for these OTC drug products since 1980. During the period 1982 through 1984, 71 product problems possibly related to the metered-dose mechanism or the product closure have been reported for prescription metered-dose inhalers. Approximately twenty of these reports concern leaking of the product around the closure or the seal of the product. Five complaints concerned clogging of the inhaler even though the patient had cleaned the inhaler properly. Defective mouthpieces were reported several times. Two complaints stated that the product sprayed continuously after releasing the mechanism used to deliver a dose, another complaint stated that the inhaler sprayed too much, a few complained that the product did not aerosolize properly, and one complained that the dose was too strong. Several reports stated that the inhaler would not spray at all, while one report stated that the inhaler would not spray at first and then when it did spray there was no drug effect. Another complaint contended that the inhaler did not work because the propellant had leaked. Approximately twenty reports complained that the inhaler either did not work after only part of the medication had been delivered or that the product delivered fewer doses than the labeling indicated it should deliver. Several of these reports questioned whether the inhaler was giving the proper dose. In four cases, the reports complained that the dose was too low or the product had low potency. One report stated that the inhaler worked intermittently and another report stated that the product "backfires" after it is half used. One report complained that the propellant or other ingredient was bad, another report said that the product was defective, and a third report stated that the actuator did not work.

The agency believes that the relatively small number of product problems reported since 1982 for prescription drug products in metered-dose inhalers and the lack of any such reports related to the metered-dose mechanism for OTC inhalers indicates that the current state of the technology available to produce reliable metered-dose inhaler mechanisms allows the agency to generally recognize metered-dose inhaler dosage forms for OTC bronchodilators containing epinephrine preparations as specified in the monograph. The agency therefore believes that the concerns raised by the comment are adequately addressed under the Current Good Manufacturing Practice regulations (21 CFR Part 211) and that requiring application approval for such drug products is no longer necessary unless the product contains a chlorofluorocarbon as a propellant.

Agency regulations in 21 CFR 2.125(d) state that the use of a chlorofluorocarbon as a propellant in a self-pressurized container of a drug product will not result in the drug product being adulterated and/or misbranded provided the drug has an approved NDA. Therefore, OTC bronchodilator drug products in metered-dose inhalers that contain a chlorofluorocarbon as a propellant may be marketed only under an approved NDA.

The agency notes that the Panel recommended that 1 to 3 inhalations of a 1-percent solution of epinephrine be generally recognized as safe and effective as an OTC bronchodilator and the agency concurred in the tentative final monograph (47 FR 47522). Such solutions are used in hand-held rubber bulb nebulizers for oral inhalation in much the same manner as metered-dose inhalers are used. The precise dose of epinephrine delivered with a hand-held rubber bulb nebulizer is variable and the reproducibility of factors such as the pattern of the spray and the size of the aerosolized droplets are also variable. In addition, the agency has provided a three-fold dosage range, i.e., a range of 0.16 to 0.5 mg, for epinephrine in metered-dose inhalers of one to two inhalations containing the equivalent of 0.16 to 0.25 mg of epinephrine per inhalation.

In view of the general recognition and current use of 1 percent epinephrine in hand-held rubber bulb nebulizers with their recognized variables, the lack of significant reports of problems with currently marketed bronchodilator drug products in metered-dose inhalers, and the requirements of 21 CFR Part 211 and 21 CFR 330.1(e), the agency disagrees with the comment that preclearance of bronchodilators such as epinephrine in metered-dose inhalers is necessary or that specific manufacturing standards for metered-dose inhalers be included in the monograph for OTC bronchodilator drug products. Because concerns regarding variability and reproducibility of precise doses of epinephrine are not critical to the general recognition of this drug as safe and effective for use in inhalation dosage forms, the Commissioner concludes that a hearing on this issue is not warranted.

References

(1) Comment No. C00002, Docket No. 76N-052B, Dockets Management Branch.

(2) Department of Health and Human Services, Food and Drug Administration, "Drug Product Problem Reporting System: Products Searched for: All Aerosols for Inhalation," pertinent pages for the years 1971–1984, OTC Volume 04BFM, Docket No. 76N-052B, Dockets Management Branch.

11. Several comments were received from physicians expressing views that inhaled bronchodilators should not be available as OTC drug products. The comments expressed concern over the potential for overuse and abuse of metered-dose aerosols for asthmatic patients. One comment was concerned about the "problem patient who has free access to inhaled bronchodilators and uses more and more of the medication with less and less beneficial effect and more and more side effect." Another comment stated that "past problems (morbidity and mortality) seem to be related to repeated use of inhaled medications thus delaying more vigorous treatment. What safeguards are being initiated to lessen rather than increase this problem?" The comments felt strongly that these kinds of medications should be available by prescription only, to ensure satisfactory monitoring of patient response to prevent unnecessary tragedies. One comment suggested that more investigative research should be conducted "into the overuse and/or poor treatment results" from any OTC aerosolized bronchodilators when used as the sole treatment for bronchospasm. Another comment agreed with the agency's decision that OTC medication

should be available to asthmatics and noted that there is considerable evidence documenting the effectiveness of therapeutic sprays and aerosols in a wide variety of allergic and respiratory disorders including asthma.

The agency responded in the tentative final monograph to similar comments which disagreed with the Panel's recommendation to allow the OTC marketing of epinephrine inhalation products for the treatment of asthma. Those comments recommended that the FDA require these products to be dispensed only by prescription (47 FR 47522). The comments expressed similar objections to the self-treatment of asthma with OTC inhalation drug products, specifically products containing epinephrine. As the agency stated in the tentative final monograph, the Panel was well aware of the abuse potential and the possible adverse effects that may occur with the use of inhalation products, but felt the risks involved do not outweigh the benefits to be derived from the OTC use of these products. (See comment 1 above.)

The agency concurred with the Panel's recommendation that asthma requires a professional diagnosis and recommended the following warning for all bronchodilators in § 341.76(c)(1) of the tentative final monograph: "Do not take this product unless a diagnosis of asthma has been made by a doctor." The agency recognizes that once a diagnosis of asthma has been made, physicians may prescribe medication in oral dosage forms and recommend the use of an aerosol bronchodilator as needed, depending upon the patient's condition. The agency acknowledges that inhaled OTC bronchodilators are not necessarily appropriate for use as the sole treatment for bronchospasm and that the use of other dosage forms in conjunction with them may be indicated. Decisions regarding the appropriate dosage forms for a particular patient should be made by the patient and the physician. However, it is reasonable to have bronchodilator aerosols available OTC so that relief may be obtained quickly when necessary without the need to obtain a physician's prescription.

The agency believes that the warning statements and the directions for use required on the label adequately inform a consumer about the dangers of overusing an aerosol bronchodilator. For instance, § 341.76(c)(6)(i) of this final monograph states: "Do not use this product more frequently or at higher doses than recommended unless directed by a doctor. Excessive use may cause nervousness and rapid heart beat, and, possibly, adverse effects on the heart." The agency has added the words "more frequently" to the first sentence of this warning and slightly revised the statement for clarity. The agency has also determined that the first sentence of this warning shall be required to appear in bold print to further emphasize to consumers not to overuse this type of product. The directions instruct the consumer to start with one inhalation, then to wait at least 1 minute. If not relieved, to use once more and not to use again for at least 3 hours. The agency emphasizes that, unless directed by a physician, the use of OTC inhaled bronchodilators is not recommended for use by patients who have been diagnosed as having severe asthma. As an added safeguard, the agency is including in this final monograph an additional warning statement that alerts patients who have active, serious asthma, i.e., have been hospitalized for asthma or who are taking any prescription drug for asthma, against using any OTC bronchodilators unless directed to do so by a physician. (See comment 15 below.)

E. Comments on OTC Bronchodilator Labeling

12. One comment requested that the final monograph for OTC bronchodilator drug products be modified to clarify which isomer of epinephrine is to be used as a standard in determining equivalency to epinephrine base. The comment stated that the biological activity of racemic epinephrine either as epinephrine base or as epinephrine hydrochloride (racemic) (since renamed racepinephrine hydrochloride) has approximately one-half the biological activity of *l*-epinephrine. The comment cited two references to substantiate the different biological activities of the isomers of epinephrine (Refs. 1 and 2). The comment suggested that, because of the difference in biological activity between the *d* and *l* forms of epinephrine, proposed § 341.76(d)(2)(ii) should be revised to clarify that the concentration of epinephrine for use in a hand-held rubber bulb nebulizer is equivalent to 1 percent *l*-epinephrine base.

Section 502(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(e)) requires that a drug's label bears the "established name" of the drug. It is the agency's policy to use as established names those names designated in official compendia such as the United States Pharmacopeia (USP). When the tentative final monograph for OTC bronchodilator drug products was published on October 26, 1982, epinephrine was the official USP XX nomenclature for *l*-epinephrine (Ref. 3); it remains the official name for *l*-epinephrine in USP XXI (Ref. 4). The agency acknowledges the varying biological activity of the different isomers of epinephrine, but because the term "epinephrine" is the official USP terminology, it is intended to convey the same meaning as "*l*-epinephrine." Similarly, both "epinephrine" and "*l*-epinephrine" convey the same meaning as "epinephrine base." Therefore, the agency is revising the term "epinephrine base" in § 341.76(d) of the tentative final monograph to read "epinephrine" in this final monograph.

References

(1) Weiner, N., "Norepinephrine, Epinephrine, and the Sympathomimetic Amines" *in* "The Pharmacological Basis of Therapeutics," 6th Ed., Macmillan Publishing Co., New York, p. 144, 1980.

(2) Patil, P.N., J.B. La Pidus, and A. Tye, "Steric Aspects of Adrenergic Drugs," *Journal of Pharmaceutical Sciences*, 59:1205–1234, 1970.

(3) "The United States Pharmacopeia XX—The National Formulary XV," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 278–282, 1980.

(4) "The United States Pharmacopeia XXI—The National Formulary XVI," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 374–375, 1985.

13. One comment contended that the labeling indications in the tentative final monograph for metaproterenol sulfate in a metered-dose inhaler for OTC use are unnecessarily restrictive because they do not specifically include emphysema and bronchitis as conditions that can be relieved by the drug. The comment stated that the two conditions are contained in the approved prescription drug labeling for metaproterenol sulfate and that published clinical data and extensive clinical experience also support the safety and efficacy of metaproterenol sulfate for OTC use by persons with emphysema or bronchitis. The comment requested that the indications be revised to include emphysema and bronchitis as follows: "For temporary relief of shortness of breath, tightness of chest, and wheezing due to bronchial asthma, emphysema, or bronchitis." Likewise, the comment requested that the warnings for metaproterenol sulfate be revised to include the two conditions as follows: "Do not take this product unless a diagnosis of asthma, emphysema, or bronchitis has been made by a doctor."

The agency advises that the latest FDA approved labeling for metaproterenol sulfate in a metered-dose inhaler indicates the drug for use "as a bronchodilator for bronchial

asthma and for reversible bronchospasm which may occur in association with bronchitis and emphysema" (Ref. 1). The prescription drug labeling does not recommend the generalized use of metaproterenol sulfate in all cases of bronchitis and emphysema as implied by the comment. However, because metaproterenol sulfate is not included as a monograph condition in this final rule, the comment's labeling request is moot (see comment 3 above).

Reference

(1) Copy of FDA-approved labeling from NDA 16-402, OTC Volume 04BTFM, Docket No. 76N-052B, Dockets Management Branch.

14. Many comments objecting to OTC status for metaproterenol sulfate in metered-dose inhalers stated that this drug is inappropriate for use in children under 12 years of age. Some of the comments contended that OTC status for this drug product would make the drug widely available for use in the under 12 age group even though it is not labeled for use in this age group. The comments stated that existing data are inadequate to demonstrate the safety of the drug in children under 12 years of age and that the drug has not been approved by FDA for use in this age group. Several comments stated that OTC availability of this drug product will increase abuse and misuse by children under 12 years of age. Some comments further stated that because parents cannot accurately diagnose the severity of a child's asthma attack, they would inappropriately attempt to treat a severe attack with metaproterenol sulfate inhalers, and this could result in serious consequences such as adverse reactions, delayed medical care, or even death.

One comment, posing a counter argument, noted that metaproterenol sulfate metered-dose inhalers are not labeled for use in children under 12 years of age, and stated that "there is no evidence in the available literature or any other reason to suggest that metaproterenol [metered-dose inhaler] would pose serious risks for this age group if it were made available OTC with appropriate warnings against use by children under the age of 12." The comment pointed out that, although this drug product is not approved by FDA for use in children under 12 years of age, it "is in fact widely used in younger patients without serious adverse results." The comment further stated that "the American Academy of Pediatrics, Section on Allergy and Immunology, recently recommended oral metaproterenol for infants and toddlers, and metaproterenol [metered-dose inhaler] for acute pediatric episodes in a dosage of two to three inhalations." The comment noted that oral dosage forms of metaproterenol sulfate are approved by FDA for use in children under 12 years of age and that metaproterenol metered-dose inhalers are approved for use in children under 12 years of age in the United Kingdom. The comment compared the OTC availability of metaproterenol sulfate in metered-dose inhalers, labeled with directions to consult a physician for use in children under 12 years of age, with similar OTC labeling for codeine and diphenhydramine antitussive drug products that direct the parent to consult a physician for use in children under 6 years of age. The comment pointed out that FDA dealt with the safety problems of using these drugs in younger children through appropriate labeling, and argued that such labeling would be equally effective in assuring the safe OTC use of metaproterenol inhalers.

The comment stated further that it is committed to performing additional pediatric studies, in an effort to increase scientific knowledge of the drug and to confirm the safety of the drug "in the unlikely event that a child under 12, or his parent, ignored prominent label warnings and purchased the drug for the child's use." The comment added that the research effort is not intended to secure a pediatric indication for OTC use.

In the tentative final monograph, the agency cited one study concerning the use of metaproterenol sulfate in metered-dose inhalers in children (Ref. 1). In that double-blind crossover study in a group of 10 children between the ages of 7 and 14 years, the pulse rate of each child was recorded for 60 minutes following the administration of 1.5 mg metaproterenol sulfate as an aerosol. No significant increase in pulse rates was found. Also, the authors did not note any adverse effects from this treatment. In addition, the agency is aware that this drug is widely used in children under 12 years of age as a prescription drug product. However, the labeling for the use of metaproterenol sulfate in metered-dose inhalers, as proposed in the tentative final monograph, did not include directions for use in children under 12 years of age. Instead, the labeling directed the parent to consult a physician before using the drug in this age group. The directions, warnings, and drug interaction statements for many OTC drug products instruct the consumer to seek the supervision of a physician or other health care professional under specified circumstances, particularly when using the drug in young children. The agency believes that such labeling is adequate to provide for the safe and effective use of OTC bronchodilator drug products.

Because metaproterenol sulfate in metered-dose inhalers is used widely in children under 12 years of age, the agency acknowledges and commends the commitment of one drug manufacturer to perform studies of the drug in this age group. However, because metaproterenol sulfate is not included in this final monograph, the agency will not address further the safety of this drug in children under 12 years of age in this document. (See comment 3 above.)

Reference

(1) Blackhall, M.I., B. Macartney, and S.R. O'Donnell, "The Acute Effects of the Administration of Rimiterol Aerosol in Asthmatic Children," *British Journal of Clinical Pharmacology*, 6:59-62, 1978.

15. One comment supporting OTC status for metaproterenol sulfate in metered-dose inhalers suggested that all OTC bronchodilators in aerosol dosage forms be labeled with additional warnings against their use (1) if the person has been hospitalized within the past several years for asthma, or (2) if the person is presently taking steroids for asthma. The comment suggested these additional warnings to ensure that patients with active, serious asthma do not purchase and rely on OTC bronchodilators without consulting a physician. The comment requested that FDA modify the tentative final monograph to include these additional warnings.

The agency agrees with the comment that patients with active, serious asthma should not rely on aerosol bronchodilator drug products unless directed by a physician, and that such patients need medical supervision by a physician. FDA's Pulmonary-Allergy Drugs Advisory Committee discussed its concerns about the use of OTC bronchodilator drug products by severe asthmatics at its meeting on May 13 and 14, 1983, concerning OTC status for metaproterenol sulfate (Ref. 1). The Advisory Committee indicated and the agency agrees that a medical history of hospitalization for asthma within the past several years and/or current use of prescription drug products such as steroids are indications that a patient may have serious active asthma (Ref. 1). The Advisory Committee believed that the use of OTC metaproterenol metered-dose inhalers should be restricted to adults who are not receiving concomitant medication, have not been

hospitalized previously for asthma, and have never received steroids for asthma. Although the Advisory Committee only discussed metaproterenol metered-dose inhalers, the agency believes that the Committee's concerns are applicable to the use of any OTC bronchodilator, whether an aerosol or other dosage form, and that additional warnings are warranted under the circumstances above.

The agency believes that the comment's suggested phrase, "hospitalized within the past several years," would be helpful to describe "active, serious" asthma. However, as the Advisory Committee discussed, people who have previously been hospitalized for asthma should not use metaproterenol metered-dose inhalers unless directed by a doctor. The agency agrees that if a person has been hospitalized for asthma there is a presumption that the condition is serious. Under these circumstances, no OTC bronchodilator drug should be used unless directed by a doctor.

In addition, the agency agrees with the comment and with the Advisory Committee that people with active, serious asthma who are taking steroids prescribed by a doctor for this condition should not use OTC bronchodilators without first consulting the doctor. The agency also believes, in view of the Advisory Committee's concerns regarding concomitant asthma medication, that patients should not take any OTC bronchodilator drug product without consulting a doctor if they are also taking a prescription drug product for asthma. Therefore, the agency is adding to the final rule the following warning for all OTC bronchodilator drug products: "Do not use this product if you have ever been hospitalized for asthma or if you are taking any prescription drug for asthma unless directed by a doctor." The agency believes that this warning statement will better alert these patients not to use the product unless directed to do so by a doctor.

Reference

(1) Transcripts of the May 13 and 14, 1983, meeting of the FDA Pulmonary-Allergy Drugs Advisory Committee, identified as TS, Docket No. 76N–052B, Dockets Management Branch.

16. One comment questioned the agency's decision to propose professional labeling in § 341.90 of the tentative final monograph. The comment suggested that this proposal establishes a new category of OTC drug products in which only the adult dose is provided and the directions for the product state that a doctor be consulted for children under 12 years of age. Thus, information about the dosage for children under 12 years may appear in the labeling of the product provided to health professionals but not to the general public. The comment agreed with the intent of the proposal, i.e., that these products are not suitable for medically unsupervised use in children; however, the comment questioned the mechanism proposed. The comment stated that "If professional labeling refers to package inserts," it is hard to envision companies preparing separate labeling for professional samples. The comment added that the wording is permissive, not mandatory, and that it is possible that dosing information for children may not be provided at all. The comment was also concerned about the possible publication of the information in publications that are available to the general public in bookstores.

The comment asked the agency to consider the following questions: "(1) Is it in anyone's interest to try to restrict information about dosage, knowing that while the regulation may be enforced, the information will still be disseminated? Does the ability to avoid the intent of the regulation promote disrespect for regulation in general? (2) Does restricting information about dosage for the general public interfere with the availability of the information to the physician?"

The comment proposed the following labeling for these drug products: "Dosage for children under 12 must be determined by your doctor. The dosage will usually be within the following ranges." The above labeling would be followed by the dosage ranges for the individual age groups. The comment felt that this would provide the correct information and warnings, allow a user's check on the doctor's instructions, and provide a written reminder of the oral directions received from the physician.

The agency defines professional labeling as information that is provided to health care professionals only and not to the general public. There are often situations in which the use of OTC drug products requires the supervision of a physician, such as the use of ephedrine preparations in asthmatic children under 12 years of age. In these situations, professional labeling provides information to the physician concerning such things as dosages or other indications for the OTC drug product. This information is generally not found in the labeling or package inserts made available to consumers or in publications such as the Physician's Desk Reference (PDR) for Nonprescription Drugs. Information in professional labeling is made available to health care professionals through literature and samples provided by representatives of the drug companies, through advertisements in professional journals, and by publication in professional books such as the PDR discussing prescription drugs. Because these are the principal methods for disseminating the information, the agency does not believe that limiting the information about dosage that is available to the general public interferes with the availability of this information to physicians.

As the comment pointed out, some professional books and journals may be obtained by consumers who then will have access to information in professional labeling. The agency cannot prevent consumers from obtaining such information. However, the agency can require sufficient information on the label of the drug product for the safe and effective use of the product on an OTC basis. For example, the agency believes that the dosage regimen for ephedrine for asthmatic children under 12 years of age requires medical supervision by a physician. Therefore, this information should be provided to physicians and is not intended to be included in the labeling provided to the consumer. The required OTC labeling directs parents who wish to give the drug to asthmatic children under 12 years to consult their physicians for information on how to give the drug. The agency believes that the regulations concerning the dosage information for ephedrine are in the best interest of the patient and does not believe that they encourage consumers to try to circumvent the intent of regulations or that they promote disrespect for regulation in general.

The agency disagrees with the comment's proposed labeling that would state that the dosage for children under 12 years of age must be determined by a doctor, followed by a dosage range for the individual age groups. Consumers may not consult a doctor concerning dosage requirements for children under 12 years if such information is provided on the label. Therefore, the agency is retaining in this final monograph, § 341.90 *Professional labeling*, which provides to health care professionals (but not to the general public) recommended dosage ranges for ephedrine, ephedrine hydrochloride, ephedrine sulfate, and racephedrine hydrochloride for children under 12 years of age.

II. Summary of Significant Changes From the Proposed Rule

1. The name "Epinephrine hydrochloride (racemic)," proposed in § 341.16(f) of the tentative final monograph, was not an official or a compendial name for this drug. A compendial monograph for racepinephrine hydrochloride became official on January 1, 1986 (Ref. 1). Therefore, the name "Racepinephrine hydrochloride" is used in this final monograph for this ingredient. In addition, because the term "epinephrine" is the official terminology for the term "epinephrine base," this term has been revised to read "epinephrine" in § 341.76(d) in the monograph. (See comment 12 above.)

Reference

(1) "The United States Pharmacopeia XXI—The National Formulary XVI, Supplement 3," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 2031–2032, 1985.

2. The agency believes that metaproterenol sulfate in metered-dose inhalers cannot be generally recognized as safe and effective as an OTC bronchodilator at this time and has not included this drug in the final monograph. (See comment 3 above.)

3. The agency is not including proposed § 341.76(b)(2), *Other allowable statements*, in this final monograph but is incorporating the statements proposed in that section of the tentative final monograph in the indications section in this final monograph.

4. The agency has added a warning to § 341.76(c) against use, unless directed by a doctor, of OTC bronchodilators in asthmatics who have been hospitalized for asthma or who are taking prescription drugs for asthma. This warning helps ensure that patients with active, serious asthma do not use OTC bronchodilators except under the supervision of a physician. (See comment 15 above.)

5. To further emphasize that asthmatics should not overuse epinephrine in aerosol dosage forms, the agency has modified, for clarity, the warning in § 341.76(c)(6)(i) and is requiring that the first sentence of this warning appear on the label of the product in boldface type. This warning instructs the asthmatic not to use higher doses than recommended nor to use the product more frequently than recommended. In addition, the warning explains the possible consequences of excessive use of the product. (See comment 11 above.)

6. Because of concern that possibly serious consequences could develop from the excessive use of epinephrine drug products, the agency is also requiring that the warning in § 341.76(c)(6)(ii) appear on the label of the marketed product in boldface type. This warning instructs the asthmatic to discontinue use of the product, and to seek medical assistance if relief is not obtained in 20 minutes or if symptoms become worse. (See comment 9 above.)

7. The agency has substituted the word "use" for the word "take" in the warning statements for clarity and consistency. The word "use" is more appropriate for inhalation drug products and is also appropriate for oral dosage forms.

8. The agency has moved the portion of § 369.20 Epinephrine Inhalation 1:100 (not for injection) that warns against use of the product if it is brown in color or contains a precipitate, with minor modifications for clarity, to the bronchodilator monograph as § 341.76(c)(6)(iii). This warning is needed to ensure that an ineffective product is not used.

III. The Agency's Final Conclusions on OTC Bronchodilator Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC bronchodilator drug products are generally recognized as safe and effective and not misbranded. Specifically, the following ingredients are included in this final rule for OTC bronchodilator use: ephedrine, ephedrine hydrochloride, ephedrine sulfate, epinephrine, epinephrine bitartrate, racephedrine hydrochloride, and racepinephrine hydrochloride. All other ingredients for OTC bronchodilator use are considered nonmonograph ingredients. These include by example, but not by way of limitation, those ingredients previously considered by the Panel or the agency in the course of this rulemaking, e.g., belladonna alkaloids, euphorbia pilulifera, metaproterenol sulfate, methoxyphenamine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and single-ingredient theophylline preparations (theophylline, anhydrous; aminophylline; theophylline calcium salicylate; theophylline sodium glycinate). Any drug marketed for use as an OTC bronchodilator drug product that is not in conformance with the monograph (21 CFR Part 341) will be considered a new drug within the meaning of section 201(p) of the act (21 U.S.C. 321(p)) and misbranded under section 502(a) of the act (21 U.S.C. 352(a)) and may not be marketed for this use unless it is the subject of an approved NDA.

In the **Federal Register** of April 22, 1985 (50 FR 15810) the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under that policy, the agency had maintained that the terms used in an OTC drug product's labeling were limited to those terms included in a final OTC drug monograph.

In the **Federal Register** of May 1, 1986 (51 FR 16258), the agency published a final rule changing the exclusivity policy and establishing three alternatives for stating the indications for use in OTC drug labeling. Under the final rule, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "Approved Uses"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "Approved Uses"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "Approved Uses," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 47520). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC bronchodilator drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC bronchodilator drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the collection of information requirements of § 341.76(d)(2)(i)(*b*) in these regulations will be submitted for approval to the Office of Management and Budget (OMB). These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register** prior to April 2, 1986.

The agency is removing portions of § 369.20 applicable to epinephrine in inhalation dosage forms and to oral ephedrine preparations because these portions of that regulation are superceded by the requirements of the bronchodilator final monograph (Part 341). The items being removed include the entries for "Ephedrine Preparations (oral)" and "Epinephrine Inhalation 1:100 (not for injection)" under § 369.20. As noted above, the agency has moved the portion of § 369.20 Epinephrine Inhalation 1:100 (not for injection) that warns against use of the product if it is brown in color or contains a precipitate, with minor modifications for clarity, to the bronchodilator monograph.

List of Subjects

21 CFR Part 341

Labeling, Over-the-counter drugs.

21 CFR Part 369

Labeling, Medical Devices, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. By adding new Part 341, to read as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
341.1 Scope.
341.3 Definitions.

Subpart B—Active Ingredients

341.16 Bronchodilator active ingredients.

Subpart C—Labeling

341.76 Labeling of bronchodilator drug products.
341.90 Professional labeling.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

Subpart A—General Provisions

§ 341.1 Scope.

(a) An over-the-counter cold, cough, allergy, bronchodilator, or antiasthmatic drug product in a form suitable for oral, inhalant, or topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part and each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 341.3 Definitions.

As used in this part:

(a) *Bronchodilator drug.* A drug used to overcome spasms that cause narrowing of the bronchial air tubes, such as in the symptomatic treatment of the wheezing and shortness of breath of asthma.

(b) [Reserved]

Subpart B—Active Ingredients

§ 341.16 Bronchodilator active ingredients.

The active ingredients of the product consist of any of the following when used within the dosage limits established for each ingredient:

(a) Ephedrine.
(b) Ephedrine hydrochloride.
(c) Ephedrine sulfate.
(d) Epinephrine.
(e) Epinephrine bitartrate.
(f) Racephedrine hydrochloride.
(g) Racepinephrine hydrochloride.

Subpart C—Labeling

§ 341.76 Labeling of bronchodilator drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "bronchodilator."

(b) *Indications.* The labeling of the product states, under the heading "Indications," the phrase listed in paragraph (b)(1) of this section. Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed below, may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) "For temporary relief of shortness of breath, tightness of chest, and wheezing due to bronchial asthma."

(2) In addition to the required information identified in paragraph (b)(1) of this section, the labeling of the product may contain one or more of the following statements:

(i) "For the" (select one of the following' "temporary relief" or "symptomatic control") "of bronchial asthma."

(ii) "Eases breathing for asthma patients" (which may be followed by: "by reducing spasms of bronchial muscles").

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Do not use this product unless a diagnosis of asthma has been made by a doctor."

(2) "Do not use this product if you have heart disease, high blood pressure, thyroid disease, diabetes, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

(3) "Do not use this product if you have ever been hospitalized for asthma or if you are taking any prescription drug for asthma unless directed by a doctor."

(4) *"Drug Interaction precaution.* Do not use this product if you are presently taking a prescription drug for high blood pressure or depression, without first consulting your doctor."

(5) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16 (a), (b), (c), and (f).* (i) "Do not continue to use this product, but seek medical assistance

immediately if symptoms are not relieved within 1 hour or become worse."

(ii) "Some users of this product may experience nervousness, tremor, sleeplessness, nausea, and loss of appetite. If these symptoms persist or become worse, consult your doctor."

(6) *For products containing epinephrine, epinephrine bitartrate, or racepinephrine hydrochloride identified in § 341.16 (d), (e), and (g).* (i) "Do not use this product more frequently or at higher doses than recommended unless directed by a doctor. [first sentence in boldface type] Excessive use may cause nervousness and rapid heart beat, and, possibly, adverse effects on the heart."

(ii) "Do not continue to use this product, but seek medical assistance immediately if symptoms are not relieved within 20 minutes or become worse." [sentence in boldface type]

(iii) *For products intended for use in a hand-held rubber bulb nebulizer.* "Do not use this product if it is brown in color or cloudy."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16 (a), (b), (c), and (f).* Adults: oral dosage is 12.5 to 25 milligrams every 4 hours, not to exceed 150 milligrams in 24 hours, or as directed by a doctor. Do not exceed recommended dose unless directed by a doctor. Children under 12 years of age: consult a doctor.

(2) *For products containing epinephrine, epinephrine bitartrate, and racepinephrine hydrochloride identified in § 341.16 (d), (e), and (g)*—(i) *For use in a pressurized metered-dose aerosol container.* Each inhalation contains the equivalent of 0.16 to 0.25 milligram of epinephrine.

(*a*) Inhalation dosage for adults and children 4 years of age and older: Start with one inhalation, then wait at least 1 minute. If not relieved, use once more. Do not use again for at least 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: consult a doctor.

(*b*) The labeling must include directions for the proper use of the inhaler and for the proper care and cleaning of the mouthpiece. The directions must be clear, direct, and provide the consumer with sufficient information for the safe and effective use of the product.

(ii) *For use in a hand-held rubber bulb nebulizer.* The ingredient is used in an aqueous solution at a concentration equivalent to 1 percent epinephrine. Inhalation dosage for adults and children 4 years of age and older: 1 to 3 inhalations not more often than every 3 hours. The use of this product by children should be supervised by an adult. Children under 4 years of age: consult a doctor.

(e) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in this section.

§ 341.90 Professional labeling.

The labeling of the product provided to health professionals (but not to the general public) may contain the following additional dosage information for Products containing the active ingredients identified below:

(a) *For products containing ephedrine, ephedrine hydrochloride, ephedrine sulfate, or racephedrine hydrochloride identified in § 341.16 (a), (b), (c), and (f).* Children 6 to under 12 years of age: oral dosage is 6.25 to 12.5 milligrams every 4 hours, not to exceed 75 milligrams in 24 hours. Children 2 to under 6 years of age: oral dosage is 0.3 to 0.5 milligram per kilogram of body weight every 4 hours, not to exceed 2 milligrams per kilogram of body weight in 24 hours.

(b) [Reserved].

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

2. The authority citation for 21 CFR Part 369 continues to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050–1052 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 52 Stat. 1055–1056 as amended (21 U.S.C. 352, 353, 356, 357, 371); 21 CFR 5.11.

§ 369.20 [Amended]

3. In Subpart B, § 369.20 *Drugs; recommended warning and caution statements* is amended by removing the entries for "Ephedrine Preparations (Oral)" and "Epinephrine Inhalation 1:100 (nor for injection)."

Dated: September 10, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-22151 Filed 10-1-86; 8:45 am]

BILLING CODE 4160-01-M

federal register

Thursday
October 2, 1986

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 928

Papayas Grown in Hawaii; Change in Fiscal Year and Approval of Budgeted Expenditures and Assessment Rates

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

Papayas Grown In Hawaii; Change in Fiscal Year and Approval of Budgeted Expenditures and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the fiscal year to the 12-month period (July 1–June 30) from the current 12-month period (January 1–December 31). It also establishes a 9-month interim fiscal period from October 1, 1986, through June 30, 1987, and approves expenses and an assessment rate for this interim period. The new fiscal year more closely approximates the seasonal production cycle of Hawaiian papayas, and is expected to improve the functioning and effectiveness of committee operations.

EFFECTIVE DATES: Sections 928.106, and 928.216 become effective October 1, 1986. Section 928.215 is removed effective September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the FRA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This final rule changes the fiscal year, establishes an interim 9-month fiscal period, and authorizes committee expenditures of $366,000 and an assessment rate of $0.007 per pound of papayas for such interim period. The current 12-month fiscal year and related budgeted expenditures of $447,240 and assessment rate of $0.006 per pound of papayas is terminated on September 30, 1986. Hence, this action increases the assessment rate slightly, by $0.001, effective October 1, 1986. The fiscal year change is designed to improve the functioning and operations of the marketing order program. Approval of the expenditures and assessment rate is necessary for the committee to function during the interim period.

It is estimated that 100 handlers of Hawaiian papayas under the marketing order for papayas grown in Hawaii, will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. The changes contemplated in the final rule would not signficantly change the regulatory burden on such handlers.

A proposed rule was issued September 16, 1986, and published in the **Federal Register** (51 FR 33272) on September 19, 1986, pertaining to the proposed changes. Interested persons had until September 29, 1986, to file comments on the proposals. No comments were received.

The final rule is issued under the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The rule is based upon the recommendations and information submitted by the Papayas Administrative Committee, established under the order, and upon other available information. The authority for the rule is specified in §§ 928.6, 928.40, 928.41, and 928.42.

This final rule changes the fiscal year established under the marketing order, and approves expenditures and an assessment rate which are necessary because of the fiscal year change. Currently, the fiscal period is the 12-month period from January 1 through December 31 of each year. The new fiscal year is the 12-month period beginning July 1 and ending June 30 of each season, with the first full fiscal year beginning July 1, 1987. The new fiscal year more closely approximates the seasonal production cycle for Hawaiian papayas, and coincides with the Hawaiian State fiscal year. The new fiscal year is expected to improve the functioning and effectiveness of committee operations, and facilitate the partial funding of marketing research and development projects by Hawaiian State government agencies.

To effectuate the fiscal year change as quickly as possible, the current fiscal year is terminated on September 30, 1986, and an interim 9-month fiscal period is established beginning October 1, 1986. Expenditures are authorized and an assessment rate is established for the 9-month fiscal period ending June 30, 1987, to allow the committee to function during the interim period. Such expenditures are estimated at $366,000, and the assessment rate needs to be $0.007 per pound of papayas to generate sufficient income to fund program operations. Currently authorized expenditures and an assessment rate of $0.006 for the current fiscal year (January 1, 1986, through December 31, 1986) is terminated effective September 30, 1986.

Pursuant to 5 U.S.C. 553, it is hereby found that it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register**, because: (1) This action is based upon the unanimous recommendation of the committee at a public meeting; (2) affected persons will not need additional time to comply with the changes specified in the rule; and (3) notice of the proposed interim 9-month fiscal period and related expenditures and assessment rate beginning October 1, 1986, and the proposed termination of currently authorized expenses and assessment rate on September 30, 1986, was published in the **Federal Register** and no objections were received.

List of Subjects in 7 CFR Part 928

Marketing agreements and orders, Papayas.

PART 928—[AMENDED]

Subpart—Rules and Regulations (7 CFR Part 928.141–928.313) is amended as follows:

1. The authority citation for 7 CFR Part 928 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 928.106 is added to read as follows:

§ 928.106 Fiscal year.

Pursuant to § 928.6, the term "fiscal year" is redefined to mean the 12-month period beginning on July 1 of each year and ending on June 30 of the following year: *Provided*, That an interim fiscal period is established for the period October 1, 1986, through June 30, 1987.

3. Section 928.215 (51 FR 8789) is removed effective September 30, 1986.

4. Section 928.216 is added to read as follows:

(§ 928.216 expires June 30, 1987, and will not be published in the annual Code of Federal Regulations.)

§ 928.216 Expenses and assessment rate.

Expenses of $366,000 by the Papaya Administrative Committee are authorized and an assessment rate of $0.007 per pound of papayas is established for the 9-month fiscal period October 1, 1986, through June 30, 1987. Unexpended funds may be carried over as a reserve.

Dated: October 1, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-22525 Filed 10-1-86; 11:21 am]

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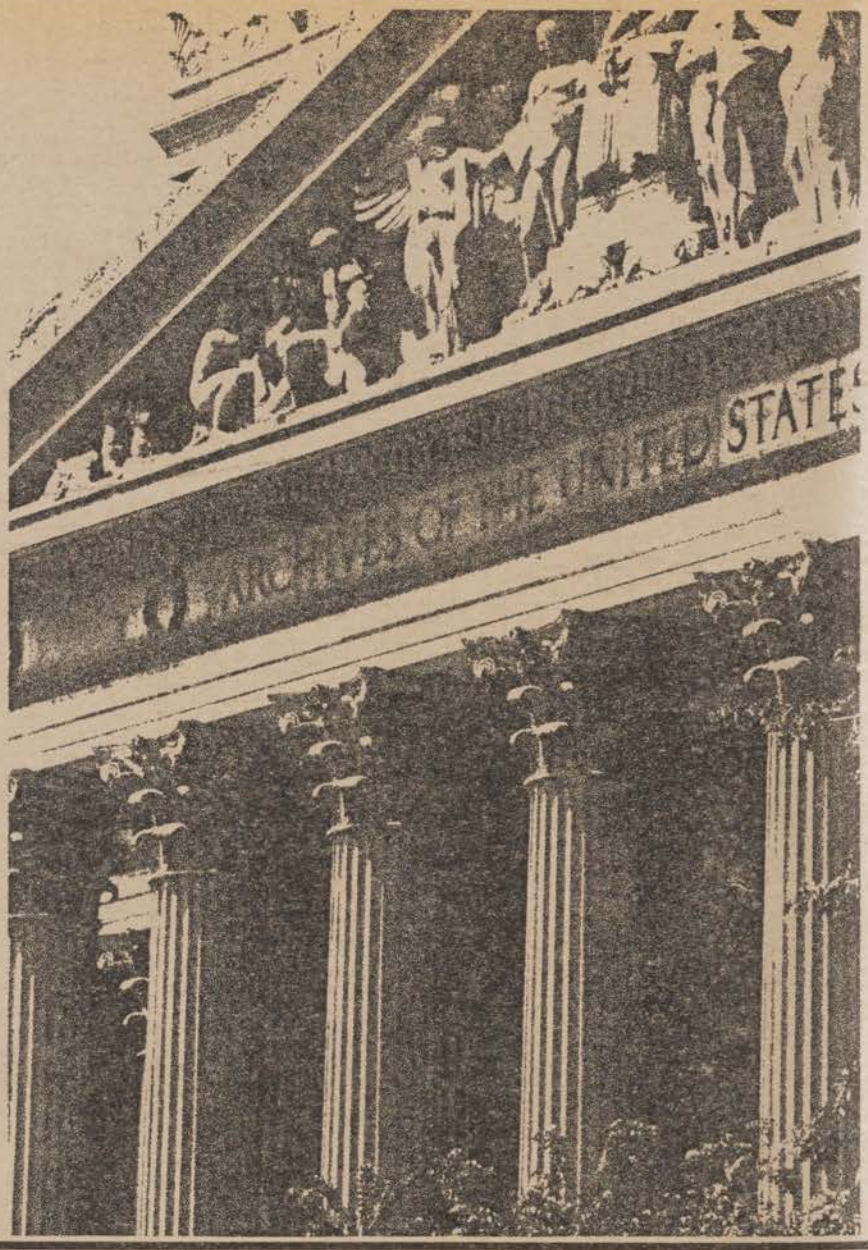

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